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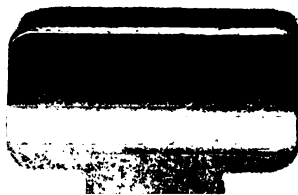
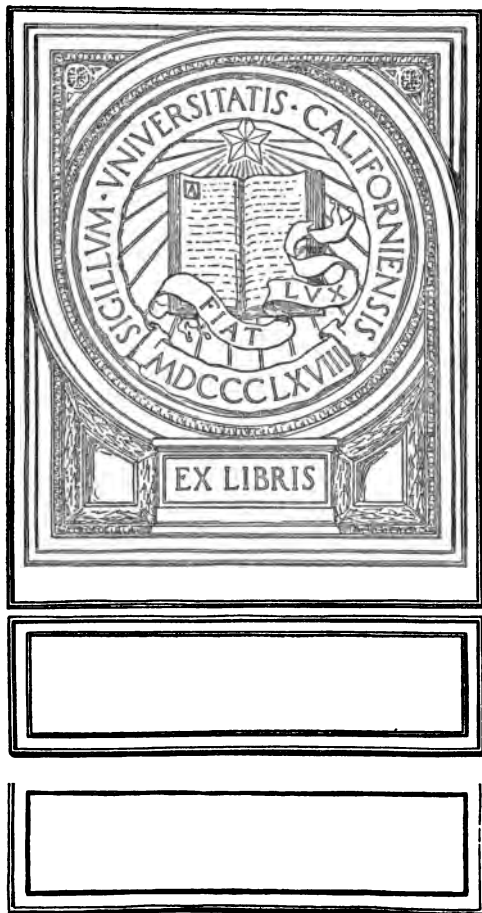
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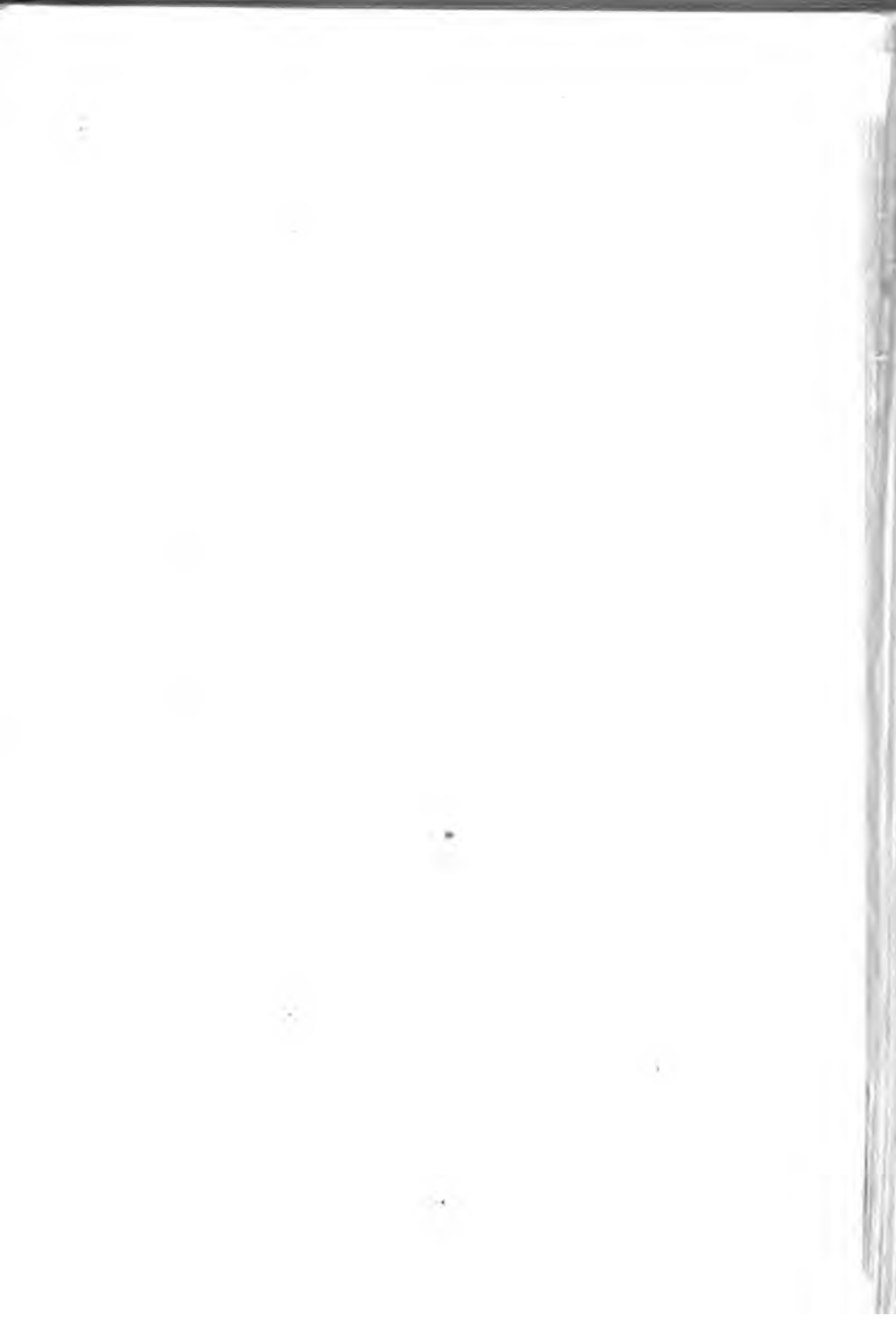
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UNIV. OF  
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NOTES ON THE  
BACON-SHAKESPEARE  
QUESTION

BY

CHARLES ALLEN



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## PREFACE

AN attempt is here made to throw some new light, at least for those who are not already Shakespearian scholars, upon the still vexed question of the authorship of the plays and poems which bear Shakespeare's name. In the first place, it has seemed to me that the Baconian argument from the legal knowledge shown in the plays is of slight weight, but that heretofore it has not been adequately met. Accordingly I have endeavored with some elaboration to make it plain that this legal knowledge was not extraordinary, or such as to imply that the author was educated as a lawyer, or even as a lawyer's clerk. In addition to dealing with this rather technical phase of the general subject, I have sought from the plays themselves and from other sources to bring together materials which have a bearing upon the question of authorship, and some of which, though familiar enough of themselves, have not been sufficiently considered in this special aspect. The writer of the plays showed an intimate

  
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familiarity with many things which it is believed would have been known to Shakespeare but not to Bacon ; and I have sought to collect the most important of these, to exhibit them in some detail, and to arrange them in order, so that their weight may be easily understood and appreciated. The significance of the supposed collaboration in the writing of certain of the plays, of the alterations which were made in some of them from time to time, and of Shakespeare's supposed participation in the so-called war of the theatres, is also pointed out. In addition to this, Bacon's lack of recognition during his lifetime as a poet, his apparent distaste for English poetry, and his entire want of possession of the poetical faculty, as shown in his acknowledged verses, are adverted to, as in striking contrast with Shakespeare's poems of almost unquestioned authenticity, and with his standing as a poet and dramatist amongst his contemporaries ; to which is added an enumeration of Shakespeare's known and of some of his probable acquaintances. These with some incidental matters make up the substance of what is contained in these Notes.

In making citations, even from recent authorities, for the sake of brevity I have usually given

only the surnames of the writers, without any titles. Citations are sometimes accumulated for the convenience of those who may wish to verify the text, and who may have access to only a part of the authors referred to. My constant obligations to the Concordances, not being mentioned elsewhere, should be acknowledged here; at the outset to Mrs. Cowden Clarke's, and then and more especially to Mr. John Bartlett's, whose work it is a delight to consult. In dealing with so many details some mistakes must have been made; but none, I hope, which will seriously affect the general view presented. It is to be borne in mind that in different editions of Shakespeare and of the other early dramatists there is a want of uniformity in the division of plays into acts and scenes. Indeed, some plays are not so divided at all. Modern spelling, capitalization, and usually punctuation have been followed. It should also be mentioned that in cases of doubtful authorship of plays, or where there has been collaboration between different writers, some want of exactness in giving credit may be noticed; for example, plays written by Fletcher alone, or by Fletcher in conjunction with others than Beaumont, may be attributed to Beaumont and Fletcher; and so in the case

of a few other writers. Fortunately, recourse may be had to the new and revised edition of Ward's History of English Dramatic Literature for full information in all such cases.

CHARLES ALLEN

Boston, March, 1900.

## EXPLANATORY NOTE

IN citing authorities, usually a sufficient designation is intended to be given in the footnotes. But for brevity's sake certain authors are generally cited merely by their names, and in such cases the works and editions referred to are as follows :—

- BACON : The works of Francis Bacon, collected and edited by James Spedding and others. 15 vols. Boston ed. 1860-64.
- BOAS : Shakspeare and his Predecessors. By Frederick S. Boas. New York ed. 1896.
- BRANDES : William Shakespeare, A Critical Study. By George Brandes. New York ed. 1899.
- CAMPBELL : Shakespeare's Legal Acquirements Considered. By John Lord Campbell. London, 1859.
- DRAKE : Shakspeare and his Times. By Nathan Drake. Paris ed. 1838 [original ed. was London, 1817].
- ELZE : William Shakespeare. A Literary Biography. By Karl Elze. Translated by L. Dora Schmitz. London, 1888.
- FURNESS : Variorum Edition of Shakespeare. Edited by Horace Howard Furness. Philadelphia [12 volumes now published].
- GERVINUS : Shakespeare Commentaries. By Dr. G. G. Gervinus. Translated by F. E. Bunnett (Introduction by F. J. Furnivall). New York, 1875.
- HALLAM : Introduction to the Literature of Europe. By Henry Hallam. Paris ed. 1839.
- H.-P. : Outlines of the Life of Shakespeare. By J. O. Halliwell-Phillipps (6th ed.). 2 vols. London, 1886.
- HOLMES : The Authorship of Shakespeare. By Nathaniel Holmes. New and enlarged ed. 2 vols. Boston, 1887.
- KNIGHT : William Shakspeare, A Biography. By Charles Knight. London, 1843.

LEE : *A Life of William Shakespeare*. By Sidney Lee. New York ed. 1899.

PERCY REL. : *Reliques of Ancient English Poetry*. By Thomas Percy. 3d ed. 3 vols. London, 1847.

ROLFE : *Friendly Edition of Shakespeare*, edited by William J. Rolfe. 20 vols. Boston.

SHAKESPEARE : *The Works of William Shakespeare*. Edited by William Aldis Wright. "The Cambridge Shakespeare." 9 vols. London, 1891-1893.

VAUGHAN : *Notes on Shakespeare's Historical Plays*. By Henry Halford Vaughan. 3 vols. London, 1878.

WARD : *History of English Dramatic Literature*. By Adolphus William Ward. 3 vols. New and revised ed. London, 1899.

WISE : *Shakespeare, his Birthplace and its Neighborhood*. By John R. Wise. London, 1861.

The text of *The Cambridge Shakespeare* has been followed, and it is cited usually by Act, Scene, and Line, according to that edition.

#### CORRECTION AND ADDITION

ON page 15, line 6 from bottom, for "spelled his name" read "spelled his brother's name."

The legal phrase, "to lay by the heels," quoted on pp. 96, 97, is also found in *Don Quixote*, Boston ed. 1856, vol. 4, pp. 125, 128.

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# NOTES ON THE BACON-SHAKESPEARE QUESTION

## CHAPTER I

PRELIMINARY. — EARLY LIFE AND EDUCATION OF  
SHAKESPEARE. — EARLY LIFE IN LONDON. — BOOK-  
LEARNING

WILLIAM SHAKESPEARE was born in Stratford in 1564 ; he married Anne Hathaway in 1582, and died in Stratford in 1616. Until comparatively recent times, no doubt, so far as is known, was expressed that he was, in general, the author of the plays and poems which have borne his name. Not until 1856 was the authorship publicly attributed to Lord Bacon.<sup>1</sup> In 1866 Judge Nathaniel Holmes published his elaborate work, *The Authorship of Shakespeare*, in support of this theory, and a third and enlarged edition appeared in 1887. This contains the fullest and strongest presentation of the argument in favor of Bacon's authorship which has yet appeared,

<sup>1</sup> Miss Delia Bacon, in *Putnam's Magazine* for January, 1856, questioned Shakespeare's authorship, and by implication suggested Bacon's. So far as now known, this was the first public intimation that Bacon was the author.

## THE BACON-SHAKESPEARE QUESTION

and it is also marked for its fairness and candor. This work has been followed by Edwin Reed's *Bacon vs. Shakespeare*, the latest edition of which was published in 1897. The same theory has been urged by other recent writers. It is maintained, in general, by some one or other of these writers, that the plays show much acquaintance with foreign languages, and with law, medicine, history, natural history, and philosophy; that, in view of what is known of Shakespeare, it is inconceivable that he could have written them; that he had little education, and was in fact illiterate; that he could hardly write his own name, and had no uniform way of spelling it; that if he had been the author, he would have taken more pains to preserve the plays; that Bacon, on the other hand, had the requisite learning, and moreover had reasons for concealing his authorship; and similarities of thought and expression are pointed out, which are thought to show that Bacon's acknowledged works and the plays must have been written by the same person.

In considering the question thus presented, it is to be borne in mind that, whenever the evidence is not to the contrary, there is a certain presumption that the facts were consistent with Shakespeare's authorship. He assumed to be the author in his lifetime, and was accepted as such by his contemporaries. Unless facts are

brought forward which are inconsistent with this general belief, the claim in behalf of Bacon fails. If the facts are now obscure, if historical or biographical details are wanting, then the general belief, which has continued undisturbed until recent times, will still stand.

This suggestion is the more important because so little is known of the details of Shakespeare's life. And yet, in comparatively recent years, a good many facts have been accumulated; so that now Lee<sup>1</sup> says that an investigation extending over two centuries has brought together a mass of detail which far exceeds that accessible in the case of any other contemporary professional writer. It was not at that time the custom to spread information as to private persons through the press; weekly newspapers were not established till six years after Shakespeare's death; and the newspapers which were occasionally published during his life were no doubt filled with other material than facts of that character. Even in speaking of a period one hundred years later, Campbell<sup>2</sup> says: "From the latter end of the seventeenth century till past the middle of the eighteenth, biography was a department of literature almost entirely neglected in England. Little curiosity seems during that period to have existed respecting the private history of men,

<sup>1</sup> Appendix, p. 361.

<sup>2</sup> Life of Lord Chancellor Cowper.

however distinguished in literature, in statesmanship, or in magistracy. Before the last work of Dr. Johnson, the English public had known no more of many of their eminent poets than, till very recently, they knew of many of their eminent lawgivers."

Ignorance respecting details of Shakespeare's life raises no strong inference against his authorship of the plays and poems. The merit of these writings was not entirely unappreciated, but at that time they had not taken the place in literature which by general consent they now occupy. Highly complimentary tributes were paid to him, but other writers also (Beaumont and Fletcher,<sup>1</sup> for example) were warmly praised. Shakespeare was one actor, playwright, poet, amongst others. While allusions to his writings are not wanting, few facts were stated as to his private life.

It is known that he attended the grammar school of Stratford, and it is supposed that he left school at the age of thirteen or fourteen. From this it is sometimes hastily inferred that the education which he got at school was slight. It is reasonable to suppose that he was an apt scholar, and that at fourteen he had gained more book knowledge than most boys of that age. Instances are common of precocious stu-

<sup>1</sup> Stationer's Epistle, in first edition of Beaumont and Fletcher, 1647 (post, p. 136).

dents, both boys and girls, who take to their books instinctively, and who seem to learn the contents almost at a glance. Shakespeare, it is probable, was one of this kind, and united aptness to learn with diligence and perseverance in pursuing his studies. This is not inconsistent with a love of sports. At a later period Webster<sup>1</sup> speaks of his "copious industry." The grammar school of Stratford was reëstablished by royal charter in 1553, and is described by Sidney L. Lee in *Stratford on Avon*.<sup>2</sup> Thomas S. Baynes, in an essay entitled "What Shakespeare learnt at school,"<sup>3</sup> has given the usual curriculum of studies in a grammar school of that period. This, for a boy of fourteen, included Ovid and several other Latin authors. He shows the probability that Shakespeare acquired considerable knowledge of Latin before leaving school.

The theory has been suggested that for a time he was a teacher, and also that he passed two or three years in an attorney's office. There is no sufficient proof to establish either theory. But it may well be supposed that he did not neglect such means and opportunities of improving his education as were open to him. Instances have never been wanting of persons eminent for scholarship who gained their education under

<sup>1</sup> See post, p. 259.

<sup>2</sup> Lond., 1885, pp. 49 et seq.

<sup>3</sup> *Shakespeare Studies*, Lond., 1894, p. 147.

severely disadvantageous circumstances. The fact that Shakespeare finally left school at thirteen or fourteen, if assumed as probable, does not show that he no longer studied books. It is easy to believe that a bright and ambitious boy, eager to learn, continued his studies afterwards. According to tradition<sup>1</sup> he early practised verse-making, and as early as 1585 wrote a satirical ballad upon Sir Thomas Lucy.

There is nothing in the known facts respecting Shakespeare's want of education and his addiction to sports in his boyhood which is inconsistent with a belief in his authorship of the plays. This is well illustrated in the play of King Henry V, where the Archbishop of Canterbury, in an often quoted passage, is made to say of the king :<sup>2</sup> —

“Never was such a sudden scholar made.”

And again,<sup>3</sup> after a description of his accomplishments, he adds : —

“Which is a wonder how his grace should glean it,  
Since his addiction was to courses vain,  
His companies unlettered, rude and shallow,  
His hours filled up with riots, banquets, sports,  
And never noted in him any study,  
Any retirement, any sequestration  
From open haunts and popularity.”

The precise time of Shakespeare's removal to

<sup>1</sup> 1 Halliwell-Phillipps, 66 ; 2 H.-P. 73.

<sup>2</sup> K. Hen. V, I, i, 32.

<sup>3</sup> I, i, 53-59.

London is not known, but it is thought to have been some time from 1585 to 1587. It is generally supposed that he at once became connected with the theatre,<sup>1</sup> at first, perhaps, in humble capacities, but soon not only as an actor, but as a corrector and improver of plays which were owned by the managers and held in manuscript.<sup>2</sup> Drake<sup>3</sup> thinks that he became an actor at once. Baynes gives facts and reasons which in his opinion make it probable that Shakespeare studied French and Italian during these early years in London with John Florio, a well-known teacher.<sup>4</sup> Florio married a sister of the poet Daniel, who wrote a poem in praise of Florio's translation of Montaigne. Jonson was a friend of Florio's, and Baynes holds that there are substantial reasons for believing that Shakespeare was also, and that he wrote a sonnet prefixed to Florio's volume called *Second Fruits*. He cites Professor Minto as of this opinion. In a copy of Florio's Montaigne, now in the British Museum, the name "Will<sup>m</sup> Shakspere" is written, and this, if authentic, is one of the few autographs of Shakespeare which remain. Its genuineness, however, is not universally conceded. But Baynes says there is evidence that Shakespeare had read the book. Both Florio and Shakespeare were acquaintances of the Earl of Southampton. Flo-

<sup>1</sup> Gifford, *Life of Jonson*, clxiv.

<sup>2</sup> See post, p. 190.

<sup>3</sup> Pages 203-205.

<sup>4</sup> *Shakespeare Studies*, 94.

rio's First Fruits and Second Fruits were manuals for the study of Italian. Baynes<sup>1</sup> thinks it probable that Shakespeare was acquainted with these books, and that he would naturally betake himself to the study of Italian. The character of Holofernes in *Love's Labor's Lost* is supposed by Drake<sup>2</sup> to have been intended in ridicule of Florio, but this is discredited by others. The theory that Shakespeare could not have gained the limited acquaintance with different languages which is shown in the plays is not supported by any positive proof. It is not known that he was so employed and occupied that he could not have acquired some knowledge of them all. The contrary is shown by Baynes to be probable. And we have the direct assertion of Jonson to the effect that Shakespeare had some knowledge of Latin, and some also, though less, of Greek. This is found in the familiar lines prefixed to the First Folio edition of the plays, published in 1623, seven years after Shakespeare's death. The lines were entitled "To the memory of my beloved, the author, Mr. William Shakespeare, and what he hath left us." The particular line is, "And though thou hadst small Latin and less Greek." This line is found in a tribute to Shakespeare in which Jonson placed him above all dramatists, ancient or modern, referring by name to Æschylus, Euripides,

<sup>1</sup> Shakespeare Studies, 93 et seq.

<sup>2</sup> Page 217.

Sophocles, Aristophanes, Terence, and Plautus, as well as to the English poets Chaucer and Spenser. He apostrophizes Shakespeare as "Thou star of poets," and says, "He was not of an age, but for all time." The lines should be read in full, in order to appreciate correctly the sense in which the words are to be taken, but it would seem that Jonson, who knew Latin and Greek well, and who is pronounced by his biographer Gifford to have been among the first scholars of his age, meant to call attention to the fact that Shakespeare had this great preëminence as a dramatist and poet, and yet that he had comparatively small Latin and less Greek. He knew something of both languages, but in Jonson's estimation his attainments in them were but small. Certainly, so far as the actual use of Latin and Greek words is concerned, the plays disclose small knowledge of either language. This is satisfactorily shown by John Pym Yeatman.<sup>1</sup> It was at one time urged that the Comedy of Errors closely followed the *Menæchmi* of Plautus, of which no published English version had appeared at the time when the Comedy of Errors was written. But Holmes afterwards<sup>2</sup> conceded that not enough was taken from Plautus to found an argument on. The chief reliance of those who have thought that the writer knew Latin well is thus disposed of. It has also been noted that

<sup>1</sup> *The Gentle Shakspeare*, 49-53 (ed. 1896).

<sup>2</sup> Page 711.

Shakespeare's Latin is not always taken from original sources. Thus in *The Taming of the Shrew* a line of Terence is copied from Lilly's *Grammar*,<sup>1</sup> where it is incorrectly given. This is a book which Shakespeare probably studied in school.

If resemblances are found between the plays attributed to Shakespeare and Latin or Italian models, it does not necessarily follow that the writer was familiar with the Latin or Italian language. He may have used translations, published or unpublished. There may have been collaboration to some extent with some one or more of the university playwrights. Moreover there was a multitude of manuscript plays held as a part of the stock of a theatre, some of which were wholly or partly original, and others were translations. Few of these are now extant. Halliwell-Phillipps<sup>2</sup> says not one in fifty of the dramas of this period has come down to us, and there is no way of ascertaining how much may have been borrowed from them. With reference to this source of information, and to Shakespeare's probable use of it, Emerson<sup>3</sup> says: "At the time when he left Stratford and went up to London, a great body of stage plays of all dates and writers existed in manuscript and were in turn produced on the boards. . . . All the mass had

<sup>1</sup> Elze, 38, 39.

<sup>2</sup> 1 H.-P. 115.

<sup>3</sup> *Representative Men*, Shakespeare, 184-189 (ed. 1889).

been treated, with more or less skill, by every playwright, and the prompter has the soiled and tattered manuscripts. It is now no longer possible to say who wrote them first. They have been the property of the Theatre so long, and so many rising geniuses have enlarged or altered them, inserting a speech or a whole scene, or adding a song, that no man can any longer claim copyright in this work of numbers. . . . Shakespeare, in common with his comrades, esteemed the mass of old plays waste stock, in which any experiment could be freely tried. . . . In point of fact it appears that Shakespeare did owe debts in all directions, and was able to use whatever he found. . . . At that day, our petulant demand for originality was not so much pressed. There was no literature for the million. The universal reading, the cheap press, were unknown. A great poet who appears in illiterate times absorbs into his sphere all the light which is anywhere radiating. . . . He is therefore little solicitous whence his thoughts have been derived ; whether through translation, whether through tradition, whether by travel in distant countries, whether by inspiration ; from whatever source, they are equally welcome to his uncritical audience. Nay, he borrows very near home. . . . Chaucer is a huge borrower."

Many Italian, French, and Spanish romances or tales had been published in English versions

before 1596. A list, perhaps incomplete, is given by Drake,<sup>1</sup> who thinks that these were probably used by Shakespeare.<sup>2</sup> Later attempts have been made to give partial catalogues of Shakespeare's library; amongst others, John S. Hart, in the Handy Stratford edition,<sup>3</sup> enumerates several books which were probably included in it. The greater part of Boccaccio's Decameron was published in an English translation by William Painter in 1566, and a new edition appeared in 1575. Several references to this are found in the plays.<sup>4</sup> Drake<sup>5</sup> cites Percy to the effect that Shakespeare had probably heard one of the metrical romances sung to the harp. He also gives a full description<sup>6</sup> of the frequent, costly, and splendid masques and pageants, from which in his opinion Shakespeare obtained some portion of his intimacy with "the records of history, the fictions of paganism, and the reveries of philosophy."

Sir Thomas North's translation of Plutarch, published in 1579, was a mine from which the writer of Antony and Cleopatra, Coriolanus, and Julius Cæsar took copious supplies; sometimes appropriating a whole dialogue with close exactness. A striking illustration of this is found in the often cited speech of Coriolanus,<sup>7</sup> beginning,

<sup>1</sup> Pages 252 et seq.

<sup>2</sup> Page 272.

<sup>3</sup> Summary Outline, etc., c. 5.

<sup>4</sup> Page 274.

<sup>5</sup> Drake, 263; Lee, 163, 249, 251.

<sup>6</sup> Pages 435-437.

<sup>7</sup> IV, v, 65.

"My name is Caius Marcius," and the later speech of Volumnia in the same play;<sup>1</sup> both of which are referred to by Lee.<sup>2</sup> Holinshed's *Chronicles of England, Scotland, and Ireland* was published in 1577, and a second edition in 1586-87. Hall's *Chronicles* was published in 1548. From both of these, but especially from Holinshed, Shakespeare drew freely. Illustrations have also been collected, some of which will be given hereafter, to show that he borrowed from contemporary or recent playwrights, e. g., from Whetstone, Marlowe, Greene, Kyd, Gascoigne, Preston, Peele, Broke (or Brooke), and others.

The above considerations tend to show where Shakespeare could have got a portion of the book-learning which is found in the plays. His knowledge of law will be treated separately.

<sup>1</sup> V, iii, 94.

<sup>2</sup> Page 246 n.

## CHAPTER II

### WANT OF UNIFORMITY IN SPELLING SHAKESPEARE'S NAME. — HANDWRITING

THE inference is sometimes<sup>1</sup> drawn that Shakespeare was illiterate because he spelled his name in two different ways, and because his signatures are badly written.

At that period, intelligent persons often spelled their names in different ways.<sup>2</sup> Most modern writers adopt the mode, Shakespeare. The reasons for this need not be gone into here. But in the body of Shakespeare's will his name is spelled Shackspeare, while his own signatures appear to be Shakspere and Shakspeare.<sup>3</sup> In the bond against impediments to marriage, given in 1582, his name is spelled Shagspere.<sup>4</sup> Thomas Greene, his cousin, town clerk of Stratford, kept a diary in 1614, in which he spelled the name Shakspeare and Shakspear.<sup>5</sup> In the Stratford Register, preserved in the church, the additional forms Shakspeer, Shaksper, and Shaxspere occur.<sup>6</sup> Elze<sup>7</sup> says that in the Records of the Corporation of Stratford the name of John Shakespeare,

<sup>1</sup> Reed, *Bacon vs. Shakespeare*, 11-15.

<sup>2</sup> H.-P., Pref. to vol. 2.

<sup>3</sup> 2 H.-P. 169.

<sup>4</sup> 2 H.-P. 55.

<sup>5</sup> 1 H.-P. 229.

<sup>6</sup> 2 H.-P. 51, 52.

<sup>7</sup> Page 541.

the poet's father, occurs in fourteen different forms; Lee says, in sixteen.<sup>1</sup> In the facsimiles published by Halliwell-Phillipps, many different modes of spelling the name are found. The names of other members of the family are treated in like manner. In Shakespeare's will his daughter's name is spelled Judyth and Judith; his sister's name is spelled Johane Harte, and Jone; and the name of her sons Harte and Hart.<sup>2</sup> In the body of the will of his wife's father the name is spelled Hathway, but the signature is Hathwaie; her mother's name is spelled Jone, Joane, and Johan; and her sister's Margaret and Margaret.<sup>3</sup> In the bond against impediments Anne Hathaway's name is spelled Hathwey.<sup>4</sup> The names of relatives of his mother are spelled in different documents Arden, Ardenne, Ardennes, Ardern, and Arderne.<sup>5</sup>

Other proper names were spelled, even by educated persons, with a like variety. Bacon once spelled his name Bakon in a letter of attorney.<sup>6</sup> John Winthrop, educated at Cambridge, wrote indifferently Lord and Lorde, Tyndall and Tindall.<sup>7</sup> In Shakespeare's will we find the spelling Christe. Shakespeare's son-in-law, a physician, signed his name Hall and Hawle.<sup>8</sup> Sir Walter Raleigh spelled his name in five different ways;

<sup>1</sup> Page 284.

<sup>3</sup> 2 H.-P. 195.

<sup>5</sup> 2 H.-P. 53, 54, 173, 177.

<sup>7</sup> Winthrop's Letters.

<sup>2</sup> 2 H.-P. 169.

<sup>4</sup> 2 H.-P. 55.

<sup>6</sup> 1 Spedding, Letters and Life, 32.

<sup>8</sup> Elze, App. 1, p. 541.

other persons used fourteen. Sir Richard Grenvil's name was spelled in six or seven different ways. The names of many poets and artists were spelled without uniformity: e. g., Sydney and Sidney; Spenser and Spencer; Jonson and Johnson; Dekker and Dekkar; Kyd and Kid; Drayton and Draiton; Massys, Matsys, Massiis, Messys, and Metsys; Van Dyck, Van Dyk, Van Dijk, and Vandike; Dou, Dow, Dov, and Douw. Many illustrations of a like kind are given by Elze.<sup>1</sup> It was certainly no sign of illiteracy in Shakespeare's time for one to spell his name in two different ways.

*Shakespeare's handwriting.* Somewhat more stress,<sup>2</sup> though with no greater reason, has been laid upon his bad handwriting. Five signatures are extant, or six if that in Florio's Montaigne is included.<sup>3</sup> These are all known by what purport to be facsimile reproductions, which, however, are not quite alike. The original signatures have now without doubt become less distinct from lapse of time, and accordingly even photographic reproductions are not quite satisfactory. In looking at these facsimiles, it should be borne in mind that no strong inference can safely be drawn

<sup>1</sup> App. 1, pp. 539 et seq.

<sup>2</sup> Reed, *Bacon vs. Shakespeare*, 11, 14.

<sup>3</sup> The authenticity of the supposed autograph of Shakespeare in the Public Library of the city of Boston can hardly be considered as yet established.

from merely a few examples of signatures, because the writer's handwriting might be affected by so many temporary conditions or circumstances. One's signature may be fairly good at certain times, but almost or quite illegible at other times. The five signatures which are certainly genuine were all written towards the close of his life, viz., in 1612-13, or in 1616, when his writing may have become shaken; and in the month of March, when the weather in England is liable to be cold. It would not be extravagant to suppose that none of these signatures fairly exhibits his handwriting in his earlier years.

The six signatures are as follows : —

1. In Florio's Montaigne, a small folio volume purchased by the British Museum in 1838. The name is spelled Shakspeare, and is written with quite a free hand. The genuineness of this signature is doubted by Brandes, Lee, and others; but Rolfe (in the Critic) has said that the best authorities believe it to be authentic, though we have no positive proof of it.

2. Upon a conveyance dated March 10, 1612-13. In this "William" is written above "Shakspeare" or "Shakspeare," on a strip to which the seal was affixed, and which did not afford room to write both names on the same line.<sup>1</sup> The word "William" is written plainly and well; but the surname is hard to decipher.

<sup>1</sup> See Lee's reproduction, facing p. 267.

3. Upon a mortgage dated March 11, 1612-13. This also is written on a strip to which the seal was affixed, and is legible, the name being written, "W<sup>m</sup> Shakspe<sup>a</sup>." <sup>1</sup> The "e" came to the edge of the strip, and the "a" was written above, perhaps only as a mark of abbreviation. <sup>2</sup>

4, 5, 6. The other three signatures are from Shakespeare's will. <sup>3</sup> The first of these is written with one word above the other, as if on a strip. The word "William" is legible, but the word "Shakspeare" is partly torn off, and of itself can hardly be made out.

The second is "Will<sup>m</sup> Shakspeare," or "Shaksper;" the first word plainer than the other, and the whole not very bad.

The third is the final signature, "By me William Shakspeare." The words "By me" are written well enough. "William" is also plainly and well written, and is much like the William in the Conveyance No. 2. "Shakspeare" is not so well written, yet not very badly for one, probably sick, who was signing his will.

In all of the three instances where "William" is written out in full, the word is fairly well written, and certainly would furnish no argument in favor of the view that he was illiterate. Rolfe says that the two signatures on the deeds were

<sup>1</sup> See Lee's reproduction, facing p. 269.

<sup>2</sup> Malone's statement, copied by Knight, 538.

<sup>3</sup> See Lee's reproduction, facing p. 273.

on parchment, and Halliwell-Phillipps says that the three signatures upon the will were upon pot paper.

The handwriting, at that period, even of persons accustomed to write much, as, e. g., of scriveners and recording officers, was often obscure and hard to decipher. Hamlet himself may be cited to show that this was characteristic of statist, or statesmen : —

“I once did hold it, as our statist do,  
A baseness to write fair, and labored much  
How to forget that learning.”<sup>1</sup>

Furness<sup>2</sup> quotes a note from Blackstone : “Most of the great men of Shakespeare’s time, whose autographs have been preserved, wrote very bad hands.” It is quite curious to observe that, in Richard Simpson’s opinion,<sup>3</sup> Shakespeare’s autographs distinctly show that his handwriting is that of a scrivener or lawyer. Halliwell-Phillipps, in his *Outlines of the Life of Shakespeare*, gives many facsimiles of the name as written by scriveners, recording officers, keepers of registers of baptisms, deaths, etc., and many of these are quite as illegible as the facsimiles of Shakespeare’s own signatures. Examples may be found in vol. 1, pp. 26, 33, 36, 40, 50, 79, 125, 148, 153, 229, 230, 233 ; vol. 2, pp. 126, 138, 211, 214, 220, 223, 225, 226, 227, 228, 229, 231, 232, 233, 234,

<sup>1</sup> V, ii, 33-35.

<sup>2</sup> Furness, 1 Hamlet, 417.

<sup>3</sup> Notes and Queries (4th series), vol. 8, pp. 1-3, referred to by Elze, 88.

236, 237, 239, 240, 374. Much of the writing of that time, as shown by these and other facsimiles, can only be made out by an expert. Knight also gives several facsimiles of Shakespeare's name as written by others, which are nearly or quite as obscure.

According to Chettle,<sup>1</sup> Greene wrote a bad hand. Spenser's signature was as illegible as Shakespeare's.<sup>2</sup> Drayton's was about as bad.<sup>3</sup> But Shakespeare's contemporaries gave him credit for being able to write. Heminge and Condell, in the Preface to the Folio Edition of 1623, say: "We have scarce received from him a blot in his papers." And Jonson at a later time: "I remember the players have often mentioned it as an honor to Shakespeare that in his writing, whatsoever he penned, he never blotted out line." It would seem that the players were in the habit of seeing his writing. Certainly they must have known whether he could write or not.

The idea that a bad handwriting is proof of illiteracy might also be confuted by many modern examples. A collection of signatures might be made which would bear interesting testimony to the contrary. It was said of Napoleon by his secretary, Meneval;<sup>4</sup> "His writing was a

<sup>1</sup> Holmes, 68; 1 H.-P. 303.

<sup>2</sup> Facsimile in Fields and Whipple's *Family Library of British Poetry*, opp. p. 31.

<sup>3</sup> Facsimile in 3 Collier, *Hist. of English Dram. Poetry*, 93.

<sup>4</sup> Meneval, Napoleon, 373, Appleton's ed.

collection of letters unconnected with each other, and unreadable. Half the letters to each word were wanting; he could not read his own writing again, or would not take the trouble to do so." And in Macaulay's *Life and Letters*, in speaking of the first draft of his *History*, Trevelyan says: <sup>1</sup> "His manuscript at this stage to the eyes of any one but himself appeared to consist of column after column of dashes and flourishes in which a straight line, with a half formed letter at each end and another in the middle, did duty for a word. It was from amidst a chaos of such hieroglyphics that Lady Trevelyan, after her brother's death, deciphered that account of the last days of William which fitly closes the *History*."

It may also be mentioned that Richelieu, Montaigne, Victor Hugo, Balzac, Jules Janin, Byron, Jeffrey, Dean Stanley, Frederick D. Maurice, Horace Greeley, Rufus Choate, and many other men of mark, certainly not deficient either in intellect or in education, wrote illegibly at times. Many readers can supply other instances from their own knowledge.

<sup>1</sup> Vol. 2, p. 198 (Harper's ed. 1876).

## CHAPTER III

### KNOWLEDGE OF LAW. — IN GENERAL. — GROUPS OF LEGAL TERMS

AN argument much relied on in support of the Baconian theory<sup>1</sup> is that the plays and poems show an unusual knowledge of law, and that it is not to be supposed that Shakespeare could have acquired this knowledge. Collections of the legal terms and allusions have been made by different persons, notably by Campbell,<sup>2</sup> by W. L. Rushton,<sup>3</sup> by Cushman K. Davis,<sup>4</sup> and by F. F. Heard.<sup>5</sup>

Some persons, being much impressed by this legal flavor, have accounted for it on the supposition that Shakespeare may have spent two or three years in an attorney's office. According to Campbell,<sup>6</sup> there was in Stratford a court of record, which sat every fortnight and had jurisdiction over all personal actions to the amount of £30. Six attorneys besides the town clerk belonged to this court. Twice a year another

<sup>1</sup> Holmes, 629 et seq.

<sup>2</sup> Shakespeare's Legal Acquirements Considered.

<sup>3</sup> Shakespeare's Testamentary Language.

<sup>4</sup> The Law in Shakespeare.

<sup>5</sup> Shakespeare as a Lawyer.

<sup>6</sup> Page 21.

court with a jury was held there. This theory of his having been merely a law student for a year or two has been thought ample to account for all the legal knowledge which is found ; and it has been supported by Chalmers, Malone, Collier, Elze, Fleay, and White. Campbell did not deem it necessary even to resort to this supposition, and left it an open question. Lee discredits it,<sup>1</sup> and Knight controverts it at length. The suggestions of the latter are quite pertinent. He says,<sup>2</sup> —

“There is every reason to believe that the principles of law, especially the law of real property, were much more generally understood in those days than in our own. Educated men, especially those who possessed property, looked upon law as a science instead of a mystery ; and its terms were used in familiar speech, instead of being regarded as a technical jargon. When Hamlet says, ‘This fellow might be in his time a great buyer of land, with his statutes, his recognizances, his fines, his double vouchers, his recoveries,’ he employs terms with which every gentleman was familiar.”

And again, —

“In the passage of Henry IV, part 2 : —

‘For what in me was *purchased*,  
Falls upon thee in a more fairer sort,’

it is held that *purchase*, being used in its strict legal sense, could be known only to a lawyer. An educated man could hardly avoid knowing the great distinction of *purchase* as opposed to *descent*, the only two modes of acquiring real

<sup>1</sup> Page 32.

<sup>2</sup> Pages 261 et seq.

estate. This general knowledge, which it would be very remarkable if Shakespeare had not acquired, involves the use of the familiar law terms of his day, *fee simple, fine and recovery, entail, remainder, escheat, mortgage*. The commonest practice of the law, such as a sharp boy would have learned in two or three casual attendances upon the Bailiff's Court at Stratford, would have familiarized Shakespeare very early with the words which are held to imply considerable technical knowledge, — *action, bond, warrant, bill, suit, plea, arrest*."

Certainly the fact is not yet proved that Shakespeare was an attorney's clerk; and it is hardly necessary to infer it. His legal knowledge can be accounted for otherwise.

Shakespeare became a prosperous man of business, a buyer of land, a part owner of theatrical establishments; he was acquainted with leases and indentures, interested in legal proceedings concerning the theatre, a plaintiff in actions at law for the recovery of debts, and no stranger to proceedings in chancery. He bought land<sup>1</sup> in 1597, 1602, 1610, 1613, and an unexpired term of a moiety of a lease of tithes in 1605. He left Stratford poor, went to London, soon acquired property, bought New Place in Stratford in 1597, and finally returned there, rich. This does not show that he was a scholar, but it does have some tendency to show that he was a man of parts. He made his way, and stood well

<sup>1</sup> Fleay, *Shakespeare Manual*, 6, 8, 10; 1 H.-P. 119, 184, 197, 211, 220.

with his associates. One piece of litigation in particular may have afforded him much instruction in the law of real estate, and in legal proceedings. This was the litigation respecting his mother's title to the estate called Asbies, which resulted in a bill in chancery<sup>1</sup> filed in 1597 to recover it. A detailed account of what is known respecting this litigation and trouble, extending from 1580 to 1597 and probably later, is given in three papers by Charles E. Phelps, entitled *Falstaff and Equity*, in *Shakespeariana* for 1892 and 1893. He clearly shows that Shakespeare had a chance to learn much law, even in the experience of his own family. In 1600 there was litigation concerning the Blackfriars Theatre. Fleay gives the complaint with all its legal language in full.<sup>2</sup> A fine was levied in 1575,<sup>3</sup> when Shakespeare's father bought two houses; in 1579,<sup>4</sup> when his father and mother mortgaged an estate; in 1597,<sup>5</sup> when Shakespeare bought New Place; in 1602,<sup>6</sup> to cure a defect in the title to New Place; and in 1610,<sup>7</sup> when Shakespeare bought an estate of the Combes. He thus probably had a practical acquaintance with fines and recoveries, spoken of in *Hamlet*. In 1602 an indenture was sealed and delivered for

<sup>1</sup> 1 H.-P. 137.

<sup>2</sup> *Chronicle Hist. of London Stage*, 127-132.

<sup>3</sup> 1 H.-P. 357.

<sup>4</sup> 2 H.-P. 11.

<sup>5</sup> 2 H.-P. 104.

<sup>6</sup> 1 H.-P. 185.

<sup>7</sup> 2 H.-P. 25.

Shakespeare to his brother Gilbert.<sup>1</sup> His father was engaged in litigations, instances of which are collected by Halliwell-Phillipps.<sup>2</sup> Theatres were leased. Some actors and playwrights were arrested and imprisoned for debt. Companies of actors were licensed or prohibited. As early as 1598 Shakespeare was styled "gentleman" in a legal paper.

Shakespeare would thus naturally gain some knowledge of law, including the law of real estate. Many technical legal terms and phrases must have passed under his eyes, and he must have had some acquaintance with the phraseology of legal instruments. But when it is said that his knowledge of law was so great and exact as to be quite unique, and to furnish a presumption that nobody but a technical lawyer could have written the plays, the statement cannot be accepted without question. We are led to remember (what indeed has often been noted,<sup>3</sup> though without much fulness of citation) that other writers of the same period showed a familiarity with legal terms and doctrines, and to inquire whether the knowledge of law shown in the plays or poems was really as great and as accurate as has been supposed. In pursuing this inquiry, it will be well to review the principal passages which have a legal flavor.

<sup>1</sup> 1 H.-P. 184; 2 H.-P. 19.

<sup>2</sup> 2 H.-P. 215 et seq.

<sup>3</sup> E. g. by White, *Mem. of Shakespeare*, 87, 88.

*Groups of legal terms.* In the first place, one's attention is naturally attracted by the use of collections or groups of legal terms. Take for example the passage in Hamlet which is commented on by Knight, and which contains the greatest number of legal terms used by Shakespeare in any one place:<sup>1</sup>—

“Why may not that be the skull of a lawyer? Where be his quiddities now, his quillets, his cases, his tenures, and his tricks? Why does he suffer this rude knave now to knock him about the sconce with a dirty shovel, and not tell him of his action of battery? Hum! This fellow might be in 's time a great buyer of land, with his statutes, his recognizances, his fines, his double vouchers, his recoveries; is this the fine of his fines and the recovery of his recoveries, to have his fine pate full of fine dirt? Will his vouchers vouch him no more of his purchases, and double ones too, than the length and breadth of a pair of indentures? The very conveyances of his lands will hardly lie in this box; and must the inheritor himself have no more?”

A passage like this is rather a *tour de force*, and is not written with a flowing pen. But this kind of display of legal phraseology was quite common with other writers of the time, who indeed sometimes surpassed Shakespeare in it. An example is found in the familiar passage from Dekker's Gull's Horn Book, published in 1609, describing the conversation at a cheap London ordinary. It is as follows:—

“There is another ordinary, at which your London usurer, your stale bachelor, and your thrifty attorney do

<sup>1</sup> V, i, 95 et seq.

resort; the price, three pence; the rooms as full of company as a jail; and indeed divided into several wards, like the beds of an hospital. . . . If they chance to discourse, it is of nothing but of statutes, bonds, recognizances, fines, recoveries, audits, rents, subsidies, sureties, enclosures, liveries, indictments, outlawries, feoffments, judgments, commissions, bankrupts, amercements, and of such horrible matter."

White<sup>1</sup> refers to, but does not cite in full, a less marked instance from Wilkins's *Miseries of Enforced Marriage*, published in 1607. The passage is as follows:—

"Now, Sir, from this your oath and band,  
Faith's pledge, and seal of conscience, you have run,  
Broken all contracts, and the forfeiture  
Justice hath now in suit against your soul,  
Angels are made the jurors, who are witnesses  
Unto the oath you took, and God himself,  
Maker of marriage, he that sealed the deed,  
As a firm lease unto you during life,  
Sits now as judge of your transgression;  
The world informs against you with this voice.  
. . . . .  
A heavy doom, whose execution's  
Now served upon your conscience."

Middleton in *The Phoenix*<sup>2</sup> has the following string of law terms: "O, an extent, a proclamation, a summons, a recognizance, a 'tachment,

<sup>1</sup> Page 69.

<sup>2</sup> V, i. It should be borne in mind that Middleton, Donne, Beaumont, Marston, and Ford had studied law, so that their use of legal terms is less significant than it otherwise would be. But they, like other writers of the period, assumed that the language used would be understood by listeners or readers, and therefore examples cited even from them are not destitute of weight.

and injunction! a writ, a seizure, a writ of 'praisement, an absolution, a *quietus est*."

The following passage is taken from Donne's Second Satire: —

" He throws

Like nets or lime-twigs, wheresoe'er he goes,  
His title of Barrister on every wench,  
And woos in language of the Pleas and bench.  
'A motion, lady:' speak Coscus. — 'I have been  
In love e'er since tricesimo of the Queen.  
Continual claims I have made, injunctions got  
To stay my rival's suit, that he should not  
Proceed.' Spare me, — 'In Hilary term I went;  
You said, if I returned this 'size in Lent,  
I should be in remitter of your grace;  
In th' interim, my letters should take place  
Of affidavits.'"

Spenser has the following passage in the Faerie Queene: <sup>1</sup> —

"Fair Mirabella was her name, whereby  
Of all those crimes she there indicted was:  
All which, when Cupid heard, he by and by  
In great displeasure willed a capias  
Should issue forth to attach that scornful lass.  
The warrant straight was made, and there withal  
A bailiff errant forth in post did pass,  
Whom they by name there Portamore did call;  
He which doth summon lovers to love's judgment hall.

"The damsel was attached, and shortly brought  
Unto the bar whereas she was arraigned;  
But she thereto nould <sup>2</sup> plead, nor answer aught,  
Even for stubborn pride, which her restrained:  
So judgment passed, as is by law ordained  
In cases like."

<sup>1</sup> F. Q., B. 6, c. 7, st. 35, 36.

<sup>2</sup> Would not.

An instance of a copious use of law terms is also found in Jonson's *Silent Woman* : <sup>1</sup> —

*Dauph.* Have you spoke with the lawyer, sir ?

*Mor.* O no ! there is such a noise in the court, that they have frighted me home with more violence than I went ! Such speaking and counter-speaking, with their several voices of citations, appellations, allegations, certificates, attachments, inter'gatories, references, convictions and inflictions indeed, among the doctors and proctors, that the noise here is silence to 't, a kind of calm midnight."

He afterwards gives a very detailed account of the causes of divorce in the canon law ; obviously the result of a special study of that subject.

There is another instance in his *Staple of News*.<sup>2</sup>

*P. Jun.* But Picklock, . . . thou cast cant too.

*Pick.* In all the languages in Westminster Hall,  
Pleas, Bench, or Chancery. Fee-farm, fee-tail,  
Tenant in dower, at will, for term of life,  
By copy of court-roll, knights service, homage,  
Fealty, escuage, socage, or frank almoigne,  
Grand serjeantry, or burgage.

*P. Jun.* . . . Thou shalt read  
All Littleton's Tenures to me, and indeed  
All my conveyances.

*Pick.* And make them too, sir ;  
Keep all your courts, be steward of your lands,  
Let all your leases, keep your evidences,  
But first I must procure and pass your mortmain."

The following example is from Barry's *Ram Alley* : —

<sup>1</sup> IV, ii.

<sup>2</sup> IV, i.

"Therefore widow release me, for by no law,  
Statute, or book-case, of vicesimo  
Edwardi secundi, nor by the statute  
Of Tricesimo Henrici Sexti,  
Nor by any book-case of decimo  
Of the late Queen, am I accessory,  
Part, or party-confederate, abetter,  
Helper, seconder, persuader, forwarder,  
Principal, or maintainer, of this late theft ;  
But by law, I forward, and she willing,  
Clapt up the match, and by a good statute  
Of decimo tertio Richardi quarti  
She is my leeful, lawful, and my true  
Married wife, *teste* Lieutenant Beard."

But Chapman, in *All Fools*,<sup>1</sup> published in 1605, but written as early as 1599,<sup>2</sup> surpasses them all. The passage is found in the notary's summary of his instrument of divorce.

"I think it would be something tedious to read all, and therefore, gentlemen, the sum is this; that you, signor Cornelio, for divers and sundry weighty and mature considerations you especially moving, specifying all the particulars of your wife's enormities in a schedule hereunto annexed, the transcript whereof is in your own tenure, custody, occupation and keeping; that for these the aforesaid premises, I say, you renounce, disclaim and discharge Gazetta from being your leeful or your lawful wife; and that you eftsoons divide, disjoin, separate, remove, and finally eloigne, sequester and divorce her from your bed and your board; that you forbid her all access, repair, egress or regress to your person or persons, mansion or mansions, dwellings, habitations, remainences or abodes, or to any shop, cellar, sollar, easements' chamber, dormer, and so forth, now in the tenure, custody, occupation or keeping of

<sup>1</sup> IV, i.

<sup>2</sup> 2 Ward, 434, citing Henslow's Diary.

the said Cornelio; notwithstanding all former contracts, covenants, bargains, conditions, agreements, compacts, promises, vows, affiances, assurances, bonds, bills, indentures, poll-deeds, deeds of gift, defeasances, feoffments, endowments, vouchers, double vouchers, privy entries, actions, declarations, explications, rejoinders, surrejoinders, rights, interests, demands, claims, or titles whatsoever, heretofore betwixt the one and the other party or parties being had, made, passed, covenanted and agreed, from the beginning of the world to the day of the date hereof. Given the seventeenth of November, fifteen hundred and so forth. Here, sir, you must set to your hand."

If Hamlet's collection of legal terms goes to show that the play was written by Bacon, the play of All Fools must have been written by Coke himself.

## CHAPTER IV

### GRAVE-DIGGERS' DISCUSSION IN HAMLET. — PRÆMUNIRE. — WITCHCRAFT

AMONGST passages which have been particularly relied on<sup>1</sup> as showing special legal knowledge is the grave-diggers' discussion in Hamlet as to whether Ophelia was entitled to Christian burial. This is said by Campbell<sup>2</sup> to be the mine which produces the richest legal ore. It is supposed to be in ridicule of the reasoning in the law case of *Hales v. Petit*, published in Plowden's Reports, in 1578; a book which it has been assumed that Shakespeare probably could not have seen. Even this assumption is rather hasty, for in *Every Man out of his Humor*, in 1599, Jonson, who was not a lawyer, speaks of a copy of Plowden, with other law books, being put in pledge.

The scene in Hamlet appears thus in the Second Quarto, published in 1604: —

*First Clown.* Is she to be buried in Christian burial that wilfully seeks her own salvation?

*Second Clown.* I tell thee she is; and therefore make her grave straight; the crowner hath sat on her, and finds it Christian burial.

<sup>1</sup> Holmes, 12-17.

<sup>2</sup> Page 84.

*First Clown.* How can that be, unless she drowned herself in her own defence?

*Second Clown.* Why, 'tis found so.

*First Clown.* It must be *se offendendo*; it cannot be else. For here lies the point: if I drown myself wittingly, it argues an act; and an act hath three branches; it is to act, to do, and to perform; argal, she drowned herself wittingly.

*Second Clown.* Nay, but hear you, Goodman delver.

*First Clown.* Give me leave. Here lies the water; good: here stands the man; good: if the man go to this water and drown himself, it is, will he, nil he, he goes; mark you that; but if the water come to him and drown him, he drowns not himself; argal, he that is not guilty of his own death shortens not his own life.

*Second Clown.* But is this law?

*First Clown.* Ay, marry is 't; crowner's quest law."

In the first quarto edition, published in 1603, this scene was shorter, as follows:—

"*Clown.* I say no, she ought not to be buried in Christian burial.

2. Why, sir?

*Clown.* Marry, because she's drowned.

2. But she did not drown herself.

*Clown.* No, that's certain, the water drowned her.

2. Yes, but it was against her will.

*Clown.* No, I deny that, for look you sir, I stand here, if the water come to me, I drown not myself; but if I go to the water, and am there drowned, *ergo*, I am guilty of my own death."

There was a play of Hamlet, referred to by Nash, in 1589. Henslow's Diary refers to Hamlet in 1594. This play has not come down to us. Some critics think that it was not written

by Shakespeare, but perhaps by Kyd, or by somebody else. How much of the grave-diggers' talk may have been contained in this earlier play cannot now be ascertained.

There has been much discussion as to the origin and authenticity of the first quarto edition of 1603. Some critics think it an imperfect and surreptitious copy of the play as it then stood, probably taken down by ear, as plays of other writers were. The final opinion of the editors of the Cambridge edition is as follows :<sup>1</sup> —

“That there was an old play on the story of Hamlet, some portions of which are still preserved in the quarto of 1603; that about the year 1603 Shakespeare took this and began to remodel it for the stage, as he had done with other plays; that the quarto of 1603 represents the play after it had been retouched by him to a certain extent, but before his alterations were complete; and that in the quarto of 1604 we have for the first time the Hamlet of Shakespeare.”

This is interesting speculation; and it would also be interesting to ascertain, if it were possible, how much of this and other scenes was pre-Shakespearian. But this is not known. Nor can any one say that no friendly listener, playwright, collaborator in other plays, or lawyer, prompted the writer as to some of the details, after the first performances or publication of the play.

<sup>1</sup> Note following Preface to vol. vii. p. xiv.

The case of Hales *v.* Petit, supposed to be travestied, arose in this way. Before the death of King Henry VIII, the right of succession to the throne had been established in this order: Edward, Mary, Elizabeth. Mary was a Catholic. King Edward, being a Protestant, and in failing health, wished to defeat the succession of Mary, and signed letters patent making Lady Jane Grey his successor. In order to quiet doubts as to the validity of this proceeding, the judges were called on to sign the letters patent. All complied except Sir James Hales, who, though a zealous Protestant, refused to affix his signature. Notwithstanding this attempt to change the succession, Mary became queen, and Lady Jane Grey was executed in February, 1554. Sir James Hales, though he had refused to join in the movement to change the succession, became a strenuous opponent of the Catholic revolution, and was dismissed from his office as judge, and subjected to persecutions which unsettled his mind, and led him to drown himself in 1554.<sup>1</sup> A coroner's jury returned a verdict of *felo de se*. A lease of land had been held jointly by him and his wife, but Queen Mary assigned it

<sup>1</sup> Campbell, in Shakespeare's Legal Acquirements, falls into an inadvertent error in saying that Sir James Hales was prosecuted for being concerned in the plot which placed the Lady Jane Grey for a few days upon the throne. He knew better. See Campbell's Lives of Lord Chancellors Goodrich and Gardiner, 2 Campb. Lord Chancellors, 165, 166, 186-189 (Murray's ed. 1856); Hume's Hist. Eng., cc. 35, 36. Holmes adopts the same error, probably following Campbell (p. 12).

to one Petit as property which by reason of the suicide had been forfeited to the crown. Lady Margaret Hales, widow of Sir James, brought an action against Petit to recover the estate. The question in the case was whether the forfeiture was to be deemed complete in the lifetime of Sir James. If not, Lady Margaret was entitled to hold the estate as survivor. In her behalf it was argued that the forfeiture did not have relation to the time when Sir James threw himself into the water, but to the time of his death. For Petit, the opposite view was presented, and this was sustained by the court. The arguments and judgment are reported in Plowden at great length, and are very subtle. Campbell's summary of the portions which he supposed to be travestied in Hamlet is as follows:—

“Her counsel, serjeants Southcote and Puttrel, powerfully argued that, the offence of suicide being the killing of a man's self, it could not be completed in his life time, for as long as he was alive he had not killed himself, and, the moment that he died, the estate vested in the plaintiff.”

Passages then are cited from the argument as reported, which, after correcting slight errors, are as follows:—

“But this cause [viz., that her husband was *felo de se*] shall not take away her title of survivorship, for in this manner of felony two things are to be considered. First, the cause of the death; secondly, the death ensuing the cause, and these two make the felony, and without both of

them first done the felony is not consummate. And the cause of the death is the act done in the party's life time, which makes the death to follow. And the act which brought on the death here was the throwing himself voluntarily into the water, for this was the cause of his death. And if a man kills himself by a wound which he gives himself with a knife, or if he hangs himself, as the wound or the hanging, which is the act done in the party's life time, is the cause of his death, so is the throwing himself into the water here. . . . And forasmuch as he cannot be attainted of his own death, because he is dead before there is any time to attain him, the finding of his death by the coroner . . . is by necessity of law equivalent to an attainder in fact coming after his death, as to his goods. . . . He cannot be *felo de se* until the death of himself be fully had and consummate. For the death precedes the felony both in the one case and in the other, and the death precedes the forfeiture."

"Walsh, serjeant, *contra*, argued that the felony was to be referred back to the act which caused the death."

And passages from his argument are cited, as follows : —

"The act consists of three parts. The first is the imagination, which is a reflection or meditation of the mind, whether or no it is convenient for him to destroy himself, and what way it can be done. The second is the resolution, which is a determination of the mind to destroy himself, and to do it in this or that particular way. The third is the perfection, which is the execution of what the mind has resolved to do. . . . And of all the parts, the doing of the act is the greatest in the judgment of our law, and it is in effect the whole. . . . Then here the act done by Sir James Hales, which is evil and the cause of his death, is the throwing himself into the water, and the death is but a sequel thereof."

The judgment of the court, as summarized by Campbell, was that, —

“ Although Sir James Hales could hardly be said to have killed himself in his life time, the forfeiture shall have relation to the act done by Sir James Hales in his life time, which was the cause of his death, viz., the throwing himself into the water. . . . Sir James Hales was dead, and how came he to his death? by drowning; and who drowned him? Sir James Hales; and when did he drown him? in his life time. So that Sir James Hales, being alive, caused Sir James Hales to die; and the act of the living man was the death of the dead man; . . . He therefore committed felony in his life time, although there was no possibility of the forfeiture being found in his life time, for until his death there was no cause of forfeiture.”

It will be seen that the talk of the grave-digger does not very closely follow the language found in Plowden. Wallace, in *The Reporters*, obviously doubts whether any reference to Hales v. Petit was intended, and this may be open to fair question. At any rate, it is by no means necessary to infer that the writer of the scene had read the full report in the law book. The case was heard and decided in 4 & 5 Elizabeth, and the circumstances were such as to give it much notoriety. It touched the great controversy with the Church of Rome. Moreover, the nature of the discussion rendered it peculiarly open to ridicule, and it may well have remained fresh in the minds not only of technical lawyers, but of others who had a quick eye or ear for legal discussions which savored of over-refinement. It

may indeed have been a standing joke about the court and bar, passing from mouth to mouth. Malone thought Shakespeare must have heard of it in conversation. This is not improbable. A modern illustration may be given. Fifty years ago, in western Massachusetts, and no doubt also in Vermont, the case of *Torrey v. Field*, 10 Verm. 353, was thus somewhat known and talked of, outside of the profession, as furnishing an illustration of a libel, ingeniously contrived to be published by order of court. In like manner, *Hales v. Petit* may have been mentioned to Shakespeare by some legal or non-legal person who had been amused by it. Certain matters of science were explained by Tyndall to Carlyle<sup>1</sup> and were used by the latter, and careful novelists and playwrights of the present day are sometimes instructed in matters of law and medicine by professional friends. No further or deeper explanation seems necessary, in order to account for the grave-digger's talk, whoever may have been the writer, whether Shakespeare himself or the author of the earlier play.

*Præmunire.* Holmes<sup>2</sup> dwells at some length upon the following passage from King Henry VIII,<sup>3</sup> as tending to show a knowledge of the law that would not be expected in Shakespeare.

<sup>1</sup> Tyndall, *New Fragments*, 350, 351, 356, 375, 385, N. Y., 1892.

<sup>2</sup> Pages 630-634.

<sup>3</sup> III, ii, 337-344.

It is a speech of the Duke of Suffolk to Cardinal Wolsey, in presence of the Duke of Norfolk.

“ Lord Cardinal, the king’s further pleasure is —  
Because all those things you have done of late,  
By your power legatine, within this kingdom,  
Fall into the compass of a præmunire —  
That therefore such a writ be sued against you ;  
To forfeit all your goods, lands, tenements,  
Chattels, and whatsoever, and to be  
Out of the king’s protection.”

In reference to this, there are three different considerations to be borne in mind.

In the first place, this passage is thought by some recent critics to have been written by Fletcher, and not by Shakespeare. It is now pretty well established that a large portion of the play was not Shakespeare’s but Fletcher’s.<sup>1</sup>

Moreover, by whomever written, the lines are little more than a paraphrase of Holinshed, whose account is as follows, the most significant words being here put in italics :<sup>2</sup> —

“ In the meantime, the king, being informed that *all those things that the cardinal had done by his power legatine within this realm were in the case of the præmunire* and provision, caused his attorney Christopher Hales to *sue out a writ of præmunire against him*, in the which he licensed him to make his attorney. And furthermore the seventeenth of November the king sent the two *dukes of*

<sup>1</sup> Boas (citing Spedding and Hickson), 546, 547; Lee, 262; Brandes, 608-613; Ingleby, Shakespeare, *The Man and the Book*, 49.

<sup>2</sup> Holinshed, 741-743 (ed. of 1808).

*Norfolk and Suffolk* to the cardinal's place at Westminster, who went as they were commanded, and finding the cardinal there they declared that *the king's pleasure was* that he should surrender up the great seal into their hands, and to depart simply into Asher. . . . After this, in the king's bench his matter for the *præmunire* being called upon, two attorneys, which he had authorized by his warrant signed with his own hand, confessed the action, and so had judgment *to forfeit all his lands, tenements, goods and cattels, and to be out of the king's protection* ; but the king of his clemency sent to him a sufficient protection, and left to him the bishoprics of York and Winchester, with plate and stuff convenient for his degree."

It thus appears that the penalty prescribed in the old statute of *præmunire*, under which Wolsey was convicted, St. 16 Rich. II, A. D. 1392, was fully recited in Holinshed, with which, as is well known, the writer of the plays was familiar. Holmes apparently was under the impression that the words in the last five lines of Suffolk's speech, including the phrase "the compass of a *præmunire*," were not taken from Holinshed. Otherwise he could hardly have attached importance to the slight difference of phraseology between "the case of the *præmunire*" and "the compass of a *præmunire*," as he seems to have done.

Finally, other writers of the period had a general acquaintance with the doctrine of *præmunire*, which, though now unfamiliar, was probably as well understood then by persons of ordinary intelligence as the Fugitive Slave Law

was in the United States before the abolition of slavery. Some illustrations will be given : —

“ First, free my dogs,  
Lest what I have done to them, and against law,  
Be a *præmunire* ; for by Magna Charta  
They could not be committed as close prisoners.” <sup>1</sup>

“ If the law finds you with two wives at once  
There 's a shrewd *præmunire*.” <sup>2</sup>

“ In being out of office, I am out of danger ;  
Where, if I were a justice, besides the trouble,  
I might, or out of wilfulness or error,  
Run myself finely into a *præmunire*,  
And so become a prey to the informer.” <sup>3</sup>

“ See where a *Præmunire* comes, a *Dedimus potestatem*,  
and that most dreadful execution, *Excommunicato Capiendo*. There 's no bail to be taken.” <sup>4</sup>

“ He is either swallowed in the quick-sands of law-quillets, or splits upon the piles of a *præmunire*.” <sup>5</sup>

Several examples of the use of the phrase “ within the compass of ” are given in Murray's Dictionary. To these may be added the following : —

“ Can we not live in compass of the law,  
But must be swaggered out on 't ? ” <sup>6</sup>

<sup>1</sup> Jonson, *Staple of News*, V, ii.

<sup>2</sup> Massinger, *The Old Law*, V, i.

<sup>3</sup> Massinger, *New Way to Pay Old Debts*, I, i.

<sup>4</sup> Middleton, *The Phoenix*, IV, i (Bullen's ed. 1885).

<sup>5</sup> Middleton, *A Trick to Catch the Old One*, I, i.

<sup>6</sup> Heywood, *Fair Maid of the West* (pt. 1), II, i.

"Though I were found to be the author, yet it cannot be within the compass of that statute whereupon the indictment is framed. . . . The matter, to bring it within the compass of that statute, must be false."<sup>1</sup>

The phrase "the king's protection" is used by Barry in *Ram Alley*; and, as follows, by Dekker in *If This be not a Good Play*:—

"Crave I the king's protection."

"Protection! What's that?"

"It is a buckler of a large fair compass  
Quilted within with fox-skins; in the midst  
A pike sticks out. . . .

And this pike keeps off

Serjeants and bailiffs, actions and arrests;

'T is a strong charm 'gainst all the noisome smells

Of counters, jailors, garnishes, and such hells;

By this a debtor crazed so lusty grows

He may walk by and play with his creditor's nose."

We now say,<sup>2</sup> "the protection of the law."

*Witchcraft.* In support of the view that the plays are full of legal lore, Holmes<sup>3</sup> even cites passages in *Othello*,<sup>4</sup> as showing that the writer was acquainted with a statute against witchcraft. The language referred to does not closely follow the words of that statute; but if it did, no strong inference would arise from it, since witchcraft at that time was common material for playwrights. The belief in it prevailed till long after Shakespeare's time; the law was

<sup>1</sup> John Udall, Puritan minister, 1590, in 1 *State Trials*, 1283, 1284.

<sup>2</sup> *Const. of Massachusetts.*

<sup>3</sup> Pages 638, 639.

<sup>4</sup> I, ii, 63-80; I, iii, 60-64, 103-106.

no secret; trials were not unknown. Statutes against witchcraft were passed in the reigns of Henry VIII, and of Elizabeth. In 1597 James, afterwards king of England, published his tract on Demonology. Middleton wrote a play called *The Witch*, and Rowley and others wrote one called *The Witch of Edmonton*. The Devil is an Ass, by Jonson, is full of witchcraft, and convictions in the courts for that offence are referred to in the lines, —

“That she maybe accused for ’t, and condemned,  
By a Middlesex jury.”<sup>1</sup>

In Jonson’s *Alchemist*, a particular statute is cited.

“*Face.* I’ll bring thee, rogue, within  
The statute of sorcery, tricesimo tertio  
Of Harry the Eighth.”

“*Dol.* You will accuse him! You will bring him in  
Within the statute! Who shall take your word?”<sup>2</sup>

<sup>1</sup> I, i.

<sup>2</sup> I, i.

## CHAPTER V

### OTHER INSTANCES SHOWING LEGAL KNOWLEDGE PARALLELED

OTHER instances will now be given to show that often parallels to Shakespeare's display of legal knowledge may be found in other writers ; and first in relation to the law of real estate. After these, other branches or topics will be taken up, though an exact classification is hardly practicable.

*Ædificium cedit solo.* Campbell cites the sentence in *The Merry Wives of Windsor*,<sup>1</sup> "I have lost my edifice by mistaking the place where I erected it," as showing a knowledge of the law of real property not generally possessed. It can hardly be supposed, however, that this amount of legal learning was rare. And a letter of Nash in 1596, cited by Fleay,<sup>2</sup> says that the players were so uncertain about their estate that "they cannot build upon it." The actors, of whom Shakespeare was one, had learned this lesson in the law from their own experience. Chapman, in *May Day*,<sup>3</sup> cites the Latin maxim

<sup>1</sup> II, ii, 196.

<sup>2</sup> *History of the London Stage*, 157.

<sup>3</sup> III, iii.

signifying the same thing: "*Ædificium cedit solo*, says the lawyer."

*Purchase.* Knight's comment upon the use of the word "purchased" in its legal sense in 2 King Henry IV<sup>1</sup> has already been quoted. A similar use is found in Antony and Cleopatra, "faults hereditary rather than purchased;" and perhaps also in Love's Labor's Lost, "which with pain purchased doth inherit pain." Instances of a like use of this word by other writers are certainly infrequent. White<sup>2</sup> says it was so used once by Beaumont and Fletcher, but he does not give the citation. The word "purchase" as a noun was often used by writers of that period for booty, earnings, or acquirement generally; and, as a verb, in the sense to obtain, get, acquire, or receive. The instance in Beaumont and Fletcher, referred to by White, was perhaps the following passage in The Laws of Candy:—

"Of my peculiar honors, not derived  
From successary, but purchased with my blood."<sup>3</sup>

*Fee.* The word "fee" and its compounds are often found in Shakespeare, sometimes as applied to land, and sometimes metaphorically. E. g.:—

"Should it be sold in fee."<sup>4</sup>

"For entering his fee-simple without leave."<sup>5</sup>

<sup>1</sup> IV, v, 200.

<sup>2</sup> Memoirs Sh., 74.

<sup>3</sup> I, ii.

<sup>4</sup> Hamlet, IV, iv, 22.

<sup>5</sup> 2 Hen. VI, IV, x, 25.

"If the devil have him not in fee-simple, with fine and recovery."<sup>1</sup>

"Fee-simple of my life."<sup>2</sup>

"He will sell the fee-simple of his salvation, the inheritance of it; and cut the entail from all remainders, and a perpetual succession for it perpetually."<sup>3</sup>

"The rivelled fee-simple of the tetter."<sup>4</sup>

"A kiss in fee-farm."<sup>5</sup>

"Is it a fee-grief

Due to some single breast?"<sup>6</sup>

Such use of these words was common, and shows no special legal knowledge. The sentence from *Merry Wives*, using the phrase "fine and recovery," is spoken by Mrs. Page, showing that a woman might be supposed to be acquainted with these terms. The passage from *All's Well* is spoken by Parolles to a common soldier, who gives no sign of failing to understand it. Some instances of a like use by other authors may be cited:—

"To hold of her in fee."<sup>7</sup>

"And eke of lordship with both land and fee."<sup>8</sup>

"Did equally bequeath his lands in fee."<sup>9</sup>

"What else they have is all the tyrant's fee."<sup>10</sup>

"So is my lord now seised of all the land

As in his fee, with peaceable estate."<sup>11</sup>

<sup>1</sup> *Merry Wives*, IV, ii, 187.

<sup>3</sup> *All's Well*, IV, iii, 259.

<sup>5</sup> *Ib.*, III, ii, 48.

<sup>7</sup> *Faerie Queene*, B. 3, c. 1, st. 44.

<sup>9</sup> *Ib.*, B. 5, c. 4, st. 7.

<sup>11</sup> *Faerie Queene*, B. 6, c. 4, st. 30.

<sup>2</sup> *Romeo and Jul.*, III, i, 31.

<sup>4</sup> *Troil. and Cres.*, V, i, 21.

<sup>6</sup> *Macbeth*, IV, iii, 196.

<sup>8</sup> *Ib.*, B. 4, c. 9, st. 13.

<sup>10</sup> *Ib.*, B. 5, c. 10, st. 29.

"Heritage in fee."<sup>1</sup>

"In equal fee."<sup>2</sup>

"That all those ladies, which thou sawest late,  
Are Venus's damsels, all within her fee,  
But differing in honor and degree."<sup>3</sup>

"Railed at Latona's twin-born progeny,  
Which after held the sun and moon in fee."<sup>4</sup>

"The tenure of land is altogether grounded on military laws, and held as a fee under princes."<sup>5</sup>

"All was fee-simple to him in effect."<sup>6</sup>

"Fee-simple in his lands."<sup>7</sup>

"Although the house were their fee-simple in law."<sup>8</sup>

"I'll caper in mine own fee-simple."<sup>9</sup>

"The fee-simple of my twitch."<sup>10</sup>

"But O for shame that men should so arraign  
Their own fee-simple wits, for verbal theft."<sup>11</sup>

"Nay, that's plain in Littleton; for if that fee-simple and fee-tail be put together, it is called hotch-potch."<sup>12</sup>

Lord Fee-Simple is a character in Field's *Amends for Ladies*.

"Fee-simple" is also used in *The Play of Stuckley*, 1605, and in *Albumazar*, by J. Tomkis, 1614.

<sup>1</sup> *Faerie Queene*, c. 7, of Mutability, st. 15.

<sup>2</sup> *Ib.*, B. 2, c. 2, st. 13.

<sup>3</sup> *Ib.*, B. 6, c. 10, st. 21.

<sup>4</sup> Milton, Sonnet.

<sup>5</sup> Hooker, *Ecel. Pol.*, cited in Murray's *Dict.*

<sup>6</sup> Chaucer, *Prol. to Canterbury Tales*.

<sup>7</sup> Milton, *Colasterion*, near the end.

<sup>8</sup> Jonson, *Magnetic Lady*, II, i.

<sup>9</sup> *Merry Devil of Edmonton*.

<sup>10</sup> Middleton, *Five Gallants*, I, i.

<sup>11</sup> Heywood, *Fair Maid of the Exchange*.

<sup>12</sup> *Return from Parnassus*, IV, ii.

The passage already cited (p. 30) from Jonson's *Staple of News* contains the terms "fee-farm" and "fee-tail," as well as several other legal terms, now obsolete or little used, relating to land. Other instances of the use of "fee-farm" may be found in the dictionaries.

*Double vouchers, tenures.* "Double vouchers" and "tenures" are mentioned in *Hamlet*, in the passage already quoted. Chapman also in *All Fools* speaks of vouchers and double vouchers (ante, p. 32), and *Voucher* is a character in *Histriomastix*. Middleton mentions tenures in *The Spanish Gypsy* and in *The Phoenix*, and Beaumont and Fletcher in *The Elder Brother*. Hooker also refers to the tenure of land in *Ecclesiastical Polity* (ante, p. 49).

*Fine and recovery.* The legal phrase "fine and recovery" is found in *The Merry Wives* and in *The Comedy of Errors*, and the words are used separately in *Hamlet*. It has been noted heretofore (ante, p. 25) that Shakespeare himself resorted to this mode of curing a defect in the title to land. Dekker includes "fines" and "recoveries" in the passage already cited (ante, pp. 27, 28) from *The Gull's Horn Book*, and Middleton uses the phrase "fine and recovery" in *The Phoenix*<sup>1</sup> and in *Anything for a Quiet Life*.<sup>2</sup>

<sup>1</sup> II, iii.

<sup>2</sup> IV, i.

*Entail.* The word "entail" occurs in All's Well and in 3 King Henry VI. Other writers also used it often. E. g. : —

"That officers are entailed, and that there are Perpetuities of them."<sup>1</sup>

"I said, if any title be  
Conveyed by this, ah, what doth it avail,  
To be the fortieth name in an entail?"<sup>2</sup>

"He will disinherit her, and entail all his lordships on her."<sup>3</sup>

"He may entail a jest upon his house."<sup>4</sup>

"Cupid entails this land upon me."<sup>5</sup>

"'T is love, forsooth, that entails me to you."<sup>6</sup>

"No, they 're entailed to you."<sup>7</sup>

"Eight hundred pounds per annum, and entail  
A thousand more upon the heirs male,  
Begotten on their bodies."<sup>8</sup>

"There is tail-general and tail-special, and Littleton is very copious in that theme; for tail-general is when lands are given to a man and his heirs of his body begotten; tail-special is when lands are given to a man and to his wife, and to the heirs of their two bodies lawfully begotten; and that is called tail-special."<sup>9</sup>

A criticism of Shakespeare's use of the word entail will be noted hereafter (post, p. 129).

<sup>1</sup> Donne, Sat. iv, 123, 124.

<sup>2</sup> *Ib.*, Love's Diet.

<sup>3</sup> Field, Amends for Ladies, II. i.

<sup>4</sup> Jonson, Magnetic Lady, II. i.

<sup>5</sup> Middleton, Spanish Gypsy, II. i.

<sup>6</sup> Chapman, Blind Beggar.

<sup>7</sup> Beaum. and Fl., Elder Brother, II. i.

<sup>8</sup> Massinger, City Madam, II. ii.

<sup>9</sup> Return from Parnassus, IV. ii.

*Enfeoffed.* The word "enfeoffed" is used once in a strained sense in 1 King Henry IV ;<sup>1</sup> "enfeoffed himself to popularity." But the more common word "feoffment" does not occur in Shakespeare. It is found, however, in Chapman's All Fools, and in Jonson's Staple of News, and in The Devil is an Ass; and the word "feoffee" is in the last named play. In Wily Beguiled, 1606, Robin Goodfellow, who is not a lawyer, says, "I promised her to enfeoff her in forty pounds a year of it." In Greene's Friar Bacon, it is said, "I will enfeoff thee, Margaret, in all." Bishop Hall says, "It is that which enfeoffs our sins upon Christ."<sup>2</sup>

*Reversion.* "Reversion" is used in King Richard II :<sup>3</sup> —

"As were our England in reversion his."

The word is also found in Barry's Ram Alley, in Jonson's Silent Woman and The Magnetic Lady, in Marston's The Malcontent, in Dekker and Webster's Northward Ho, and in Spenser's Faerie Queene.

*Bargained and sold.* In 2 King Henry VI<sup>4</sup> the line occurs : —

"While his own lands are bargained for and sold."

The phrase "bargain and sale" is used twice in Jonson's Magnetic Lady.<sup>5</sup>

<sup>1</sup> III, ii, 69.

<sup>3</sup> I, iv, 35.

<sup>2</sup> The Old Religion, cited in Richardson's Dict.

<sup>4</sup> I, i, 226.

<sup>5</sup> II, i.

*In capite.* In 2 King Henry VI, Jack Cade says, "Men shall hold of me *in capite*."<sup>1</sup> This was a form of tenure then so familiar that there was nothing incongruous in putting this declaration into the mouth of an ignorant man like Cade. It was assumed that both he and those to whom he spoke would understand it. Two other instances of the use of the phrase are cited in Murray's Dictionary; one by Bullokar in 1616, and the other by Sanderson in 1634.

*Extent.* In As You Like It, Duke Frederick says: —

"Make an extent upon his house and lands."<sup>2</sup>

This use of the word "extent" has been criticised as untechnical (see post, p. 129). The term is also used in Massinger's City Madam, in Middleton's Phoenix, and in Beaumont and Fletcher's Wit without Money. In Cambyzes it is said, "His goods and lands must be extended on."<sup>3</sup> And in Wilkins's Miseries of Enforced Marriage it is said, "The sheriff with them is come to serve an extent upon your land, and then seize on your body by force of execution."

*Conveyance, deed of gift.* "Conveyances" are mentioned in Hamlet, and also in Jonson's Staple of News, and in Webster's White Devil.

<sup>1</sup> IV, vii, 116.

<sup>2</sup> III, i, 17.

<sup>3</sup> I, iii.

A deed of gift is spoken of in the Merchant of Venice, and also in Chapman's All Fools, in Webster's Devil's Law Case, and in Marlowe's Dr. Faustus.

*Mortgage.* Shakespeare makes no reference to mortgages except in the 134th Sonnet, "Myself am mortgaged." They are also mentioned in Massinger's New Way to pay Old Debts; in Shirley's Witty Fair One; in Cook's Tu Quoque; in Chapman's Blind Beggar; in Rowley's Match at Midnight; in Wilkins's Miseries of Enforced Marriage; in Barry's Ram Alley; and in Jonson's Every Man out of his Humor, and in The Silent Woman. "Mortgage" is a character in Jonson's Staple of News.

*Lease.* Shakespeare often refers to "leases," both in a literal sense and metaphorically, e.g.:—

"To let this land by lease." <sup>1</sup>

"Lease of my life." <sup>2</sup>

"Live the lease of nature." <sup>3</sup>

"Summer's lease hath all too short a date." <sup>4</sup>

"Leases of short-numbered hours." <sup>5</sup>

The term is used in like manner by other writers.

"His whole estate

In lands and leases." <sup>6</sup>

<sup>1</sup> K. Rich. II, II, i, 110.

<sup>3</sup> Macbeth, IV, i, 99.

<sup>5</sup> 124th Sonnet.

<sup>2</sup> 2 K. Hen. VI., IV, x, 6.

<sup>4</sup> 18th Sonnet.

<sup>6</sup> Massinger, City Madam, III, ii.

"When I have sealed thee a lease of my custom." <sup>1</sup>

"I give thee the lease of this house free." <sup>2</sup>

"Lengthen the short days  
Of my life's lease." <sup>3</sup>

"Shortened hast thy own life's lease." <sup>4</sup>

"Grant thou, great star and angel of my life,  
A sure lease of it but for some few days." <sup>5</sup>

"To keep his courts and to collect his rent;  
To let out leases, and to raise his fines." <sup>6</sup>

"What care I for a life, that have a lease  
For three." <sup>7</sup>

"A 'state of years." <sup>8</sup>

*Determination.* "Determination" is once used in its legal sense, as signifying the end, in the 13th Sonnet:—

"So should that beauty which you hold in lease  
Find no determination."

"Determine" is also twice used in a like sense.

"I purpose not to wait on fortune till  
These wars determine." <sup>9</sup>

"That he and Cæsar might in single fight  
Determine this great war." <sup>10</sup>

A similar use is found in Jonson's *Alchemist*:—

<sup>1</sup> Jonson, *Staple of News*, I, i.

<sup>2</sup> Jonson, *Silent Woman*, II, iii.

<sup>3</sup> Jonson, *Elegy*.

<sup>4</sup> Milton, *Epitaph on Marchioness of Winchester*.

<sup>5</sup> Chapman, *Bussy D'Ambois*, III, i.

<sup>6</sup> Barry, *Ram Alley*, I, i.

<sup>7</sup> Tomkis, *Albumazar*, II, iv.

<sup>8</sup> Jonson, *Staple of News*, III, i.

<sup>9</sup> *Coriol.* V, iii, 119.

<sup>10</sup> *Ant. and Cleop.*, IV, iv, 38.

"For here  
Determines the indenture tripartite."<sup>1</sup>

Donne also in *Anatomy of the World* says, —

"Measures of times are all determined."<sup>2</sup>

The dictionaries furnish other illustrations.

*Uses and trusts.* "Uses" and "trusts" are referred to in *The Merchant of Venice*. Antonio says: —

"So he will let me have  
The other half in use, to render it  
Upon his death unto the gentleman  
That lately stole his daughter."<sup>3</sup>

Uses and trusts are also spoken of by other authors, e. g.: —

"You do deliver this, sir, as your deed,  
To the use of Master Manley?"<sup>4</sup>

"For 't is the trust  
Of your whole state."<sup>5</sup>

"If for the trust you'll let me have the honor  
To name you one."<sup>6</sup>

"Doth your deed specify any trust? Is it not  
A perfect act, and absolute in law?"<sup>7</sup>

"Picklock denies the feoffment and the trust."<sup>8</sup>

"Of this I will assurance make,  
To some good friend whom thou wilt choose,  
That this in trust from me shall take,  
While thou dost live, unto thy use."<sup>9</sup>

<sup>1</sup> V, ii.

<sup>2</sup> I, § 40.

<sup>3</sup> IV, i, 377.

<sup>4</sup> Jonson, *The Devil is an Ass*, IV, iii.

<sup>5</sup> *Ib.*, IV, ii.

<sup>6</sup> *Ib.*

<sup>7</sup> Jonson, *Staple of News*, V, i.

<sup>8</sup> *Ib.*, V, i.

<sup>9</sup> Willobie, his *Avisa*, Canto x.

No mention of charitable or pious uses and trusts is found in Shakespeare. Some instances found in other writers will be noted hereafter.<sup>1</sup>

*Succession to property.* The succession to property by will or by law upon the death of its former owner was often referred to in plays as well as in other writings, and the legal terms relating thereto were in common use. In various plays Shakespeare mentions wills or testaments, and in one instance he uses the word "intestate," —

"Airy succeders of intestate joys."<sup>2</sup>

This can hardly be deemed to show any special legal knowledge. Only a few of the many instances of the use of these and similar terms elsewhere will be cited.

"For where a testament is, there must also of necessity be the death of the testator. For a testament is of force after men are dead; otherwise it is of no strength at all while the testator liveth."<sup>3</sup>

"Vouchsafe then to be my executrix,  
And take that trouble on you to dispose  
Such legacies as I bequeath, impartially."<sup>4</sup>

"What legacy would you bequeath me now?"<sup>5</sup>

"I want a right heir, to inherit me,  
Not my estate alone, but my conditions."<sup>6</sup>

<sup>1</sup> See post, p. 102.

<sup>2</sup> King Rich. III, IV, iv. 128.

<sup>3</sup> Heb. ix, 16, 17.

<sup>4</sup> Ford, Broken Heart, III, v.

<sup>5</sup> Beaum. and Fletcher, Spanish Curate, V, ii.

<sup>6</sup> Beaum. and Fletcher, Mons. Thomas, IV, ii.

"Where is Justinian?

Si una eademque res legatur duobus, alter rem, alter valorem, rei, etc.

A pretty case of paltry legacies!

Exhæreditare filium non potest pater, nisi, etc.

Such is the subject of the Institute,

And universal body of the Law."<sup>1</sup>

"I am his next heir at the common law."<sup>2</sup>

And in *The Fox*, Jonson uses the terms "will," "testament," "legacies," "bequeathed," "heir," "executor," "wax," and "parchment." Nash also, in *Summer's Last Will*, mentions "will," "testament," "bequeathed," "heir," and "executor."

Campbell cites the following in *King Lear* as a remarkable example of Shakespeare's use of technical legal phraseology:—

"And of my land,  
Loyal and natural boy, I'll work the means  
To make thee capable."<sup>3</sup>

The following expressions by other writers are similar:—

"Bastards are not capable of their father's patrimony."<sup>4</sup>

"No son and heir shall be held capable of his inheritance, unless," etc.<sup>5</sup>

As to the descent of land this problem is put, in the *Return from Parnassus*:<sup>6</sup>—

<sup>1</sup> Marlowe, *Dr. Faustus*, I, i.

<sup>2</sup> Jonson, *Every Man in his Humor*, I, i.

<sup>3</sup> II, i, 83.

<sup>4</sup> Guillim, cited in Murray's *Dict.*

<sup>5</sup> Middleton, *The Old Law*, V, i.

<sup>6</sup> IV, i.

*"Amorette.* It is a plain case whereon I mooted in our Temple, and that was this: put case, there be three brethren, John a Nokes, John a Nash, and John a Stile. John a Nokes the elder, John a Nash the younger, and John a Stile the youngest of all. John a Nash the younger dieth, without issue of his body lawfully begotten. Whether shall his land ascend to John a Nokes the elder, or descend to John a Stile the youngest of all? The answer is, the lands do collaterally descend, not ascend.

*Recorder.* Very true; and for a proof hereof I will show you a place in Littleton which is very pregnant on this point."

This for profundity might bear a comparison with the grave-diggers' discussion in Hamlet.

The exposition of the Salic law in King Henry V is taken from Holinshed. Maginn<sup>1</sup> has observed that it is merely a transposition of Holinshed's prose into blank verse. The Law Salique is also mentioned in Beaumont and Fletcher's Noble Gentleman.<sup>2</sup>

*Indentures tripartite.* Formal legal instruments are often referred to by Shakespeare, and also by other writers. The phrase "indentures tripartite . . . sealed interchangeably" occurs in 1 King Henry IV. The word "interchangeably" is found in Troilus and Cressida, "In witness whereof the parties interchangeably," etc.; and in a non-legal sense in King Richard II, "interchangeably hurl down my gage."

<sup>1</sup> Shakespeare Papers (Amer. ed.), 300. See also 1 Skottowe's Life of Shakespeare, 146.

<sup>2</sup> III, iv.

Jonson<sup>1</sup> also speaks of "the indenture tripartite," and refers to an indenture in *The Magnetic Lady*, in *Every Man out of his Humor*, and in *Bartholomew Fair*. Indentures are also spoken of by Chapman, by Heywood, by Ford, by Bishop Hall, and in *The Return from Parnassus*. The words "indent" and "indented" are used by Massinger; and "interchangeably" by Middleton in *The Phoenix*.

Indentures and some other instruments usually began with "*Noverint Universi*," or, "Be it known unto all men by these presents." The latter phrase occurs in *As You Like It*. This expression was quite familiar in both languages. Barry in *Ram Alley*, Chapman in *May Day*, and Beaumont and Fletcher in *The Night Walker*, use it in the Latin form; and Nash speaks of "*Noverint*" as signifying an attorney. The following instances of its use by other writers may be given:—

"I will at this time be your *Noverint*, and give him notice that you *Universi* will be with him *per presentes*, and that I take to be presently."<sup>2</sup>

"For as no indenture but has its counterpane, no *noverint* but his condition or defeasance."<sup>3</sup>

Jonson<sup>4</sup> uses the phrase in its English form: "Be it known to all that profess courtship by

<sup>1</sup> *The Alchemist*, V, ii.

<sup>2</sup> Heywood, *Witches of Lancashire*, I, i.

<sup>3</sup> Ford, *Perkin Warbeck*, II, iii.

<sup>4</sup> *Cynthia's Revels*, V, ii.

these presents." The phrase "By these presents" is found in Barry's Ram Alley, and in Marlowe's Dr. Faustus. The phrase "In witness whereof" is used in Heywood's If You Know Not Me, in Middleton's Phoenix, and in Jonson's Bartholomew Fair.

*Covenants, specialties, and articles.* "Covenants," "specialties," and "articles" are spoken of in Shakespeare; e. g. : —

"By the same covenant." <sup>1</sup>

"My heart this covenant makes." <sup>2</sup>

"Let there be covenants drawn between 's." <sup>3</sup>

"Let specialties be therefore drawn between us,  
That covenants may be kept on either hand." <sup>4</sup>

"Let us have articles betwixt us." <sup>5</sup>

These terms are all used elsewhere as well.

"And took paper and did write an instrument of covenants." <sup>6</sup>

"A firm covenant, signed and sealed by oath and hand-fast." <sup>7</sup>

"Have you such a covenant from me?" <sup>8</sup>

"And with sweet kisses, covenants were sealed." <sup>9</sup>

"Drink your draught of indenture, your sup of covenant,  
and away." <sup>10</sup>

<sup>1</sup> Hamlet, I, i, 93.

<sup>2</sup> K. Rich. II, II, iii, 50.

<sup>3</sup> Cymbeline, I, iv, 137.

<sup>4</sup> Taming of the Shrew, II, i, 125.

<sup>5</sup> Cymbeline, I, iv, 150.

<sup>6</sup> Tobit, vii, 14.

<sup>7</sup> Middleton, Anything for a Quiet Life, V, ii.

<sup>8</sup> Dekker, If This be not a Good Play.

<sup>9</sup> Drayton, 4th Ecl.

<sup>10</sup> Jonson, Bartholomew Fair, II, i.

"Each man's copyhold will become freehold, specialties will turn to generalities."<sup>1</sup>

"All covenants and articles between us both."<sup>2</sup>

*Seal.* "Seal," "sealing," "sealed," are used so often, both literally and metaphorically, by Shakespeare and by other writers, that citations are superfluous.

*Recognizances.* "Recognizances" are mentioned in Hamlet, and also by Dekker in the Gull's Horn Book, by Chaucer, by Middleton in The Phoenix, by Shirley in The Traitor, by Chapman in All Fools, and several times by Greene and Lodge in the Looking Glass.

*Statutes, obligations.* Hamlet also speaks of "statutes," which were obligations or securities for money. There were two kinds, statutes merchant and statutes staple. One kind or the other, or both, are mentioned by Dekker, by Middleton, by Massinger, by Jonson, by Shirley, by Chapman, by Nash, by Greene, and by Lyly; and also in Histriomastix. "Statute" is a character in Jonson's Staple of News.

*Bonds.* "Bonds" are referred to very often by Shakespeare and by other writers, e. g., by Wilkins, by Lyly, by Ford, by Webster, by

<sup>1</sup> Middleton, Family of Love, V, iii.

<sup>2</sup> Marlowe, Dr. Faustus, II, i.

Rowley, by Beaumont and Fletcher, by Greene, by Jonson, by Heywood, and by Middleton.

An "obligation" is mentioned in *The Merry Wives of Windsor*, and also by Cook in *Tu Quoque*.

*Forfeitures.* "Forfeitures" of different kinds were common material, not only of Shakespeare, but of other writers. "Forfeitures" are spoken of in *The Merchant of Venice*; "fracted dates" and "date-broke bonds" in *Timon of Athens*; and "forfeit of the law" in *Measure for Measure*. Shylock also says:—

"Let good Antonio look he keep his day."<sup>1</sup>

The following instances are a few amongst many from other writers:—

"The time is come

Which makes it forfeit."<sup>2</sup>

"Take the forfeit of the bond."<sup>3</sup>

"You have forfeited your recognizance."<sup>4</sup>

"It was Antonio's land, not forfeited

By course of law, but ravished from his throat."<sup>5</sup>

"When you have forfeited your bond, I shall ne'er see you more."<sup>6</sup>

"If I do not pay you the forfeiture of the whole bond."<sup>7</sup>

<sup>1</sup> *Merchant of Venice*, II, viii, 25.

<sup>2</sup> Marlowe, *Dr. Faustus*, V, iv.

<sup>3</sup> Greene et al., *Looking Glass*.

<sup>4</sup> *Ib.*

<sup>5</sup> Webster, *Duchess of Malfi*, V, i.

<sup>6</sup> Webster et al., *Westward Ho*, I, ii.

<sup>7</sup> *Ib.* III, ii.

"His bond three times since forfeited."<sup>1</sup>

"I take . . . no forfeiture of bonds unless the law tell my conscience I may do it."<sup>2</sup>

"My forfeit land." "Forfeit Mortgage."<sup>3</sup>

"Your land is forfeited."<sup>4</sup>

"All his lands are mortgaged to me, and forfeited."<sup>5</sup>

"Taken forfeit of their mortgage."<sup>6</sup>

"In a broken estate, the bond of friendship oft is forfeited."<sup>7</sup>

"If you do break your day, assure yourself  
That I will take the forfeit of your bond."<sup>8</sup>

"If he miss his day and forfeit, it shall be yours and your heirs forever."<sup>9</sup>

"Nor take the start of bonds, broke but one day,  
And say they were forfeited by Providence."<sup>10</sup>

"He that hath care of keeping days of payment is lord of another man's purse."<sup>11</sup>

*Acquittance.* "Acquittance" is found in Hamlet, and "quittance" in the Merry Wives of Windsor. Beaumont and Fletcher also use the former term in the Laws of Candy:—

"The bonds  
Cancelled, and your acquittance formally sealed."<sup>12</sup>

<sup>1</sup> Massinger, *City Madam*, I, iii.

<sup>2</sup> Middleton, *Family of Love*, III, iii.

<sup>3</sup> Barry, *Ram Alley*, I, i; III, i.

<sup>4</sup> *Return from Parnassus*, IV, i.

<sup>5</sup> Jonson, *Every Man out of his Humor*, IV, i.

<sup>6</sup> Jonson, *Silent Woman*, II, i.

<sup>7</sup> Beaumont and Fletcher, *Honest Man's Fortune*, II, ii.

<sup>8</sup> Heywood, *Fair Maid of the Exchange*.

<sup>9</sup> Rowley, *A Match at Midnight*, I, i.

<sup>10</sup> Jonson, *The Alchemist*, III, ii.

<sup>11</sup> Lord Burleigh, *Suretyship and Borrowing*.

<sup>12</sup> IV, ii.

*Jointure.* "Jointure" is spoken of in 3 King Henry VI, and in several others of Shakespeare's plays; and also in Donne's 16th Holy Sonnet; in Rowley's Match at Midnight; in Beaumont and Fletcher's Woman's Prize; in Barry's Ram Alley; in Wily Beguiled; in Webster's Devil's Law Case; in Field's A Woman is a Weathercock; in Tomkis's Albumazar; in Heywood's Fair Maid of the Exchange.

*Absque hoc; except before excepted.* Two phrases familiar to lawyers are introduced by Shakespeare without much relevancy, as follows: "Obsque hoc" for "Absque hoc,"<sup>1</sup> etc. "Let her except, before excepted."<sup>2</sup> He may have seen the former phrase in the answer to the chancery suit brought by his father, and the latter phrase in his own litigations. In Richardson's Dictionary, nom. "fee," a passage is cited from R. Brunne, "Without this, that this complainant ought not," etc. The phrase "except above excepted" is found in the deed dated February 4, 1596, to James Burbage of the Blackfriars property,<sup>3</sup> which was afterwards converted by him into a theatre.

*Courts.* Courts, crimes, and legal proceedings were often referred to by the dramatists of

<sup>1</sup> 2 K. Hen. IV, V, v, 28.

<sup>2</sup> Twelfth Night, I, iii, 6.

<sup>3</sup> 1 H.-P., 277.

that period. Shakespeare speaks of the leet, which was the lowest court, like a modern police court.

"Present her at the leet." <sup>1</sup>

"Keep leets and law days, and in session sit." <sup>2</sup>

Other writers mention other courts, real or imaginary. For example : —

"They were apprehended and bound over to the sessions at Westminster." <sup>3</sup>

"As hungry as ever came country attorney from Westminster." <sup>4</sup>

"Westminster Hall." <sup>5</sup>

"Michaelmas Term." <sup>6</sup>

"I will Star Chamber you all for cozenage." <sup>7</sup>

"Sir, you forget

There is a court above, of the Star Chamber,  
To punish routs and riots." <sup>8</sup>

"In whose courts of pie-poudres I have had the honor during the three days sometimes to sit as judge." <sup>9</sup>

"Your libel here, or bill of complaint,  
Exhibited in our high court of sovereignty." <sup>10</sup>

"Have him arrested and brought before Justice Clement." <sup>11</sup>

"Court of Heaven." <sup>12</sup>

<sup>1</sup> *Taming of the Shrew*, Induction, ii, 85.

<sup>2</sup> *Othello*, III, iii, 144.

<sup>3</sup> Greene, cited in Murray's Dict.

<sup>4</sup> Webster et al., *Westward Ho*, III, ii.

<sup>5</sup> Cook, *Tu Quoque*; Rowley, *A Match at Midnight*.

<sup>6</sup> Middleton; *Tourneur*, *Revenger's Tragedy*.

<sup>7</sup> Barry, *Ram Alley*, V, i.

<sup>8</sup> Jonson, *Magnetic Lady*, III, iii.

<sup>9</sup> Jonson, *Bartholomew Fair*, II, i.

<sup>10</sup> Jonson, *New Inn*, II, ii.

<sup>11</sup> Jonson, *Every Man in his Humor*, IV, vii.

<sup>12</sup> Peele, *Arraignment of Paris*, III, vi.

"A suit depending in hell." <sup>1</sup>

"To summon thee to appear at Pluto's court." <sup>2</sup>

"These are to cite you to the Spiritual Court." <sup>3</sup>

"He which doth summon lovers to Love's Judgment Hall." <sup>4</sup>

"A *nisi prius* tried at Lancaster 'sizes." <sup>5</sup>

*Indictment, arraignment, accessory.* An indictment against Hermione is given in *The Winter's Tale*, setting forth that she is accused and arraigned of high treason; but it is not expressed with legal formality. "Indicted falsely" occurs in *Othello*. In *2 King Henry VI*, Cade charges Lord Say with having built a paper mill, "contrary to the king, his crown and dignity;" using language common in indictments. The terms "arraign" and "arraigned" are also used in different plays.

"Summon a session, that we may arraign  
Our most disloyal lady." <sup>6</sup>

"Arraigning his unkindness with my soul." <sup>7</sup>

"You shall arraign your conscience." <sup>8</sup>

The word "accessary" is used in *King Richard III*:—

"To both their deaths shalt thou be accessory." <sup>9</sup>

<sup>1</sup> Marston, *The Malcontent*, V, iii.

<sup>2</sup> *Wily Beguiled*.

<sup>3</sup> May, *The Heir*.

<sup>4</sup> Spenser, *Faerie Queene*, ante, p. 29.

<sup>5</sup> Heywood, *Witches of Lancashire*, IV, i.

<sup>6</sup> *Winter's Tale*, II, iii, 201.

<sup>7</sup> *Othello*, III, iv, 153.

<sup>8</sup> *Meas. for Meas.*, II, iii, 21.

<sup>9</sup> I, ii, 191.

These terms, peculiar to the criminal law, are all found in other writers.

The passage already cited from the *Faerie Queene* shows that the fair *Mirabella* was indicted and arraigned (*ante*, p. 29). An indictment is spoken of in *Massinger's Fatal Dowry*, and in *Wily Beguiled*. One is given in full in *Jonson's Poetaster*, with the words, "Contrary to the peace of our liege lord, *Augustus Cæsar*, his crown and dignity, and against the form of a statute in that case made and provided." In *Jonson's New Inn* we find the phrase, "And the committing of extreme contempt into the court, our crown and dignity." In *A Warning for Fair Women* (1599) two indictments are given in full, one for murder, and the other for being accessary before and after the fact. The first concludes, "Against the peace, crown and dignity of her Majesty ;" and the second, "Contrary to the peace, crown and dignity of our Sovereign Lady the Queen." The phrase, "Contrary to the Queen's peace, her crown and dignity," occurs in *Contention between Liberality and Prodigality*. In *Shirley's Traitor* there was an arraignment and a pretended speech in imitation of a lawyer's argument for the prosecution of an indictment. In *Contention between Liberality and Prodigality* there was an indictment, an arraignment, a plea of guilty, and a sentence. In *Peele's Arraignment of Paris* there was an

arraignment and trial upon an indictment or complaint, both terms being used. Jonson also used the term "arraignment" in the title of a play, *The Poetaster*, or his *Arraignment*, and said, "Will they arraign my brisk poetaster?" In the same play the following sentences occur: "Rufus Laberius Crispinus and Demetrius Faunius, hold up your hands." "How will you be tried?" "Set the accused to the bar." "Remove the accused from the bar." A prisoner was arraigned in Webster's *Sir Thomas Wyat*, and the term "arraign" is used in the passage from Heywood's *Fair Maid of the Exchange*, already cited, ante, p. 49. In Jonson's *Alchemist*, the prisoner's response is given, —

"I put myself  
On you, that are my country." <sup>1</sup>

Jurors were called good men and true in the following passages: —

"Good men and true, stand together  
And hear your charge." <sup>2</sup>

"Good men and true, stand together; hear your censure; what's thy judgment of Spenser?" <sup>3</sup>

The word "accessary" is used, with other terms of similar import, in the passage heretofore cited <sup>4</sup> from Barry's *Ram Alley*. Jonson also uses it twice at least.

<sup>1</sup> V, iii.

<sup>2</sup> *Merry Devil of Edmonton*.

<sup>3</sup> *Return from Parnassus*, I, ii.

<sup>4</sup> *Ante*, p. 31.

“ I had as lief be accessary  
Unto his death as to his life.”<sup>1</sup>

“ For manslaughter, sir, as being accessary.”<sup>2</sup>

It is also found in *How a Man may Choose a Good Wife*.

“ For justifiers are all accessaries.”<sup>3</sup>

*Actions.* Shakespeare speaks of an action of battery in the passage already cited from *Hamlet* (p. 27), and in *Measure for Measure*, and of an action of slander in the latter play. The bringing and entering of actions at law are spoken of as follows : —

“ Touch her whoever dare :  
I'll bring mine action on the proudest he  
That stops my way in Padua.”<sup>4</sup>

“ Have you entered the action ? It is entered.”<sup>5</sup>

Similar mention is found in other authors,  
e. g. : —

“ Thou hast entered actions of assault and battery against a company of honorable and worshipful fathers of the law.”<sup>6</sup>

“ *Pettifog.* The defendant was arrested first by *latitat*, in an action of trespass.

*Compass.* And a lawyer told me it should have been an action of the case.”<sup>7</sup>

<sup>1</sup> *Magnetic Lady*, III, iv.

<sup>2</sup> *Silent Woman*, IV, ii.

<sup>3</sup> V, iii.

<sup>4</sup> *Taming of the Shrew*, III, ii, 229.

<sup>5</sup> 2 K. Hen. IV, II, i, 1.

<sup>6</sup> Dekker, *Satiromastix*.

<sup>7</sup> Webster, *Cure for a Cuckold*, IV, i.

"You shall have an action of false imprisonment against him."<sup>1</sup>

"Writ of false imprisonment."<sup>2</sup>

"Cony-catching will bear an action."<sup>3</sup>

"Sue him at common law,  
Arrest him on an action of choke-bail,  
Five hundred thousand pound ; it will affright him,  
And all his sureties."<sup>4</sup>

"But if you will be counselled, sir, by me,  
The reverend law lies open to repair  
Your reputation. That will give you damages ;  
Five thousand pound for a finger, I have known  
Given in court ; and let me pack your jury."<sup>5</sup>

This is an early illustration of heavy damages for a comparatively slight personal injury.

"Signior Deliro has entered three actions against you."<sup>6</sup>

"Enter an action against him."<sup>7</sup>

"Action is entered in the court of heaven."<sup>8</sup>

The word "action" was also sometimes used in a different sense, as signifying the length of time before an action would come to judgment ; and the phrase in 2 King Henry IV, "Four terms or two actions," is thought by Campbell to show an acquaintance with the mysteries of terms and actions. Such knowledge, however, was no secret and no mystery.

<sup>1</sup> Chapman et al., *Eastward Ho*, V, i.

<sup>2</sup> Barry, *Ram Alley*, IV, i. <sup>3</sup> Middleton, *Blurt, etc.*, IV, iii.

<sup>4</sup> Jonson, *Magnetic Lady*, V, iii. <sup>5</sup> *Ib.*, III, i.

<sup>6</sup> Jonson, *Every Man out of his Humor*, V, vii.

<sup>7</sup> Webster et al., *Westward Ho*, III, i.

<sup>8</sup> Peele, *Arraignment of Paris*, III, vi.

"He owes me forty shillings. . . . I shall have it, he says, the next action."<sup>1</sup>

"Give me credit for the rest until the beginning of the next term."<sup>2</sup>

"They have but four terms a year."<sup>3</sup>

*Vacation.* Vacation, or the interval between terms, is spoken of in *As You Like It*.

"With lawyers in the vacation ; for they sleep between term and term."<sup>4</sup>

The use of this word shows no special acquaintance with the habits of lawyers. It occurs in *Histrionomastix*, and also in the following passages : —

"When should a lawyer die but in the vacation ? He has no leisure to die in the term-time."<sup>5</sup>

"As dumb as Westminster Hall in the long vacation."<sup>6</sup>

"Nor did we know

What a vacation meant ; continual term

Fattened hell's lawyers, and shall so again."<sup>7</sup>

*Service of precepts.* In 2 King Henry IV the service of precepts is mentioned : —

"Those precepts cannot be served."<sup>8</sup>

Other writers also make similar mention.

<sup>1</sup> Jonson, *Every Man in his Humor*, I, iii.

<sup>2</sup> Jonson, *Every Man out of his Humor*, IV, v.

<sup>3</sup> Middleton, *Michaelmas Term*, III, i.

<sup>4</sup> III, ii, §10.

<sup>5</sup> Middleton, *Michaelmas Term*, I, i.

<sup>6</sup> Cook, *Tu Quoque*.

<sup>7</sup> Dekker, *If This be not a Good Play*.

<sup>8</sup> V, i, 12.

"I have an execution to serve upon them."<sup>1</sup>

"I had a warrant of the peace served on me."<sup>2</sup>

"He says, 't is a precept."<sup>3</sup>

"I will serve process presently and strongly  
Upon your brother and Octavio."<sup>4</sup>

"I now would give  
A reasonable sum of gold to any sheriff  
That would but lay an execution on me,  
And free me from his company."<sup>5</sup>

"A heavy doom, whose execution 's  
Now served upon your conscience."<sup>6</sup>

"And when the execution should be served  
Upon the sureties, they find Nobody."<sup>7</sup>

"He confessed a judgment, had an execution laid upon  
him."<sup>8</sup>

*Sir John.* How much owes Penury?

*Gold.* Two hundred pounds:

His bond three times since forfeited.

*Sir John.* Is it sued?

*Gold.* Yes, sir, and execution out against him.

*Sir John.* For body and goods?

*Gold.* For both, sir.

*Sir John.* See it served."<sup>9</sup>

*Arrest, attach, apprehend.* Many of the  
playwriters knew from personal experience the  
laws and proceedings relating to arrests for debts

<sup>1</sup> Jonson, *Silent Woman*, IV, ii.

<sup>2</sup> Jonson, *Every Man in his Humor*, IV, v.

<sup>3</sup> Jonson, *Every Man out of his Humor*, I, i.

<sup>4</sup> Beaum. and Fletcher, *Spanish Curate*, III, i.

<sup>5</sup> Beaum. and Fletcher, *The Coxcomb*, I, i.

<sup>6</sup> Wilkins, *Miseries of Enforced Marriage*, V.

<sup>7</sup> *Nobody and Somebody.* <sup>8</sup> Webster, *The White Devil*, II, i.

<sup>9</sup> Massinger, *City Madam*, I, iii.

and for petty offenses, to warrants, to sentences by the court, to the powers and duties of officers, and to rescues and releases from imprisonment. Allusions to these are frequent in Shakespeare, and only two of them will be cited here; but since such allusions have been thought to show considerable legal knowledge, instances of a like use by other writers will be given. The word "arrest" is sometimes used metaphorically; and the expression "to attach," meaning to arrest, occurs several times in the Comedy of Errors.

"As this fell serjeant, Death,  
Is strict in his arrest."<sup>1</sup>

"When that fell arrest,  
Without all bail shall carry me away."<sup>2</sup>

"He is arrested  
On a recognizance."<sup>3</sup>

"Master Deputy Golding is arrested upon an execution."<sup>4</sup>

"There's but two kinds of arrests till doomsday — the devil for the soul, the serjeant for the body; but afterward the devil arrests body and soul, serjeant and all, if they be knaves still and deserve it."<sup>5</sup>

"Death by his course natural hath him arrested."<sup>6</sup>

"Thou traitor, Faustus, I arrest thy soul."<sup>7</sup>

"And death arrests the organ of my voice."<sup>8</sup>

<sup>1</sup> Hamlet, V, ii, 328.

<sup>2</sup> 74th Sonnet.

<sup>3</sup> Chapman, All Fools, V, i.

<sup>4</sup> Chapman et al., Eastward Ho, V, i.

<sup>5</sup> Middleton, Michaelmas Term, III, iii.

<sup>6</sup> Murray's Dict., citing Hawes, 1509.

<sup>7</sup> Marlowe, Dr. Faustus, V., iii.

<sup>8</sup> Marlowe, 1 Tamburlaine, II, vii.

"But whenas Morpheus had with leaden mace  
Arrested all that courtly company."<sup>1</sup>

"As if her former dread  
Were hard behind, her ready to arrest."<sup>2</sup>

"Kindly rest,  
That all his senses did full soon arrest."<sup>3</sup>

"As if his voice feared an arrest for some ill words it  
should give."<sup>4</sup>

"A capias  
Should issue forth to attach that scornful lass."<sup>5</sup>

"Go and fetch warrants from the justices  
T' attach the murderer."<sup>6</sup>

"You have the warrant; Sirs, lay hands on him,  
Attach the slave."<sup>7</sup>

"Attach him of burglary."<sup>8</sup>

"I do here attach thee of high treason."<sup>9</sup>

The word "apprehend" is used for arrest in  
How a Man may Choose a Good Wife, and also  
by Peele; the words "attach" and "apprehen-  
sion" by Heywood; and "apprehended" by  
Greene.

*Officers.* Serjeants, as officers of arrest, and  
serjeant Death are also mentioned by other au-  
thors, e. g.: —

"Think Satan's serjeants round about thee be."<sup>10</sup>

<sup>1</sup> Spenser, *Faerie Queene*, B. I, c. iv, st. 44.

<sup>2</sup> *Ib.*, B. III, c. vii, st. 2.

<sup>3</sup> *Ib.*, B. IV, c. v, st. 43.

<sup>4</sup> Jonson, *Cynthia's Revels*, IV, i.

<sup>5</sup> Spenser, *Faerie Queene* (ante, p. 29).

<sup>6</sup> *How a Man may Choose a Good Wife*, V, i.

<sup>7</sup> *Ib.*, V, ii.

<sup>8</sup> Beaum. and Fletch., *The Faithful Friends*, I, ii.

<sup>9</sup> *Ib.*, I, ii.

<sup>10</sup> Donne, *Second Anniversary*.

"Not all

Thy bailiffs, serjeants, busy constables,  
Defesants, warrants, or thy mittimus,  
Shall save his throat from cutting."<sup>1</sup>

"And Death, dread serjeant of th' eternal judge."<sup>2</sup>

"Her serjeant, John Death, to arrest his body."<sup>3</sup>

"For all the hellish rabble are broke loose,  
Of serjeants, sheriffs, and bailiffs."<sup>4</sup>

Cook, in *Tu Quoque*, also mentions serjeants.

*Prisoner's fees.* In *The Winter's Tale*, there is an allusion to an old practice by which a prisoner paid fees upon his discharge from custody. Hermione says to Polixenes:—

"Will you go yet?

Force me to keep you as a prisoner,  
Not like a guest; so you shall pay your fees  
When you depart, and save your thanks."<sup>5</sup>

Campbell curiously enough thinks this practice could hardly be known to any except lawyers, or those who had themselves been in prison on a criminal charge. Yet Shakespeare puts the words into the mouth of Hermione, who was not a lawyer, and had not been in prison; and thus assumes, what indeed seems to be quite obvious, that a custom of this kind might be well known even to ordinary and honest people.

<sup>1</sup> Barry, *Ram Alley*, III, i.

<sup>2</sup> Sylvester, *Du Bartas*, cited by Furness, 1 *Hamlet*, 452.

<sup>3</sup> Chapman, *All Fools*, I, i.

<sup>4</sup> Heywood, *English Traveller*, IV, i.

<sup>5</sup> I, ii, 51.

There is a similar allusion in 3 King Henry VI:—

“At our enlargement what are thy due fees?”<sup>1</sup>

This custom is alluded to by others as follows:

“Serjeants, I discharge you.

There’s your fees.”<sup>2</sup>

“All fees you say are paid?”<sup>3</sup>

*Bail.* “Bail” was often spoken of by Shakespeare, and also by many other writers. Citations are almost needless, but a few will be given:—

“May not our bail suffice to free him?”<sup>4</sup>

“The gentleman’s your bail.”<sup>5</sup>

“Can you send for bail, sir?”<sup>6</sup>

“He for all bankrouths is a common bail.”<sup>7</sup>

“He was arrested, and for want of bail  
Imprisoned at their suit.”<sup>8</sup>

“How! Strike a justice of peace! ’t is petty treason,  
Edwardi quinto; but that you are my friend,  
I would commit you without bail or mainprize.”<sup>9</sup>

“I have made a most solemn vow, I will never bail any  
man.”<sup>10</sup>

“They are not bailable,

They stand committed without bail or mainprize,  
Your bail cannot be taken.”<sup>11</sup>

<sup>1</sup> IV, vi, 5.

<sup>2</sup> Barry, Ram Alley, III, i.

<sup>3</sup> Cook, Tu Quoque.

<sup>4</sup> Chapman, All Fools, V, i.

<sup>5</sup> Beaum. and Fl., Spanish Curate, V, ii.

<sup>6</sup> Webster et al., Northward Ho, I, ii.

<sup>7</sup> Nobody and Somebody.

<sup>8</sup> Massinger, Fatal Dowry, I, ii.

<sup>9</sup> Massinger, New Way to Pay Old Debts, III, ii.

<sup>10</sup> Jonson, Poetaster, III, i.

<sup>11</sup> Jonson, Staple of News, V, ii.

"Herbert Lovel, come into the court,  
Make challenge to thy first hour  
And save thee and thy bail." <sup>1</sup>

*Enlarge.* The phrase to "enlarge" a person, in the sense of discharging or releasing him from custody, is used in *Twelfth Night*, and in *King Henry V.* It is also found in Spenser's *Faerie Queene*, as follows:—

"He granted it; and straight his warrant made,  
Under the sea-god's seal authentical,  
Commanding Proteus straight t' enlarge the maid." <sup>2</sup>

*Rescue.* Shakespeare refers to "rescue" and its legal consequences in *The Comedy of Errors*.<sup>3</sup> The following instances are from other writers:

"Are you serjeants  
Acquainted with the danger of a rescue?" <sup>4</sup>

"You would make a rescue of our prisoner, sir, you." <sup>5</sup>

"You would procure a rescue." <sup>6</sup>

Barry, in *Ram Alley*, also mentions "rescue."

*Bound over.* The phrase "bound . . . to keep the peace," in *Romeo and Juliet*,<sup>7</sup> is paralleled by two passages cited in Murray's Dictionary, as follows:—

"They were apprehended and bound over to the sessions at Westminster." <sup>8</sup>

"He is not to be bound to the peace." <sup>9</sup>

<sup>1</sup> Jonson, *New Inn*, III, ii.

<sup>2</sup> B. 4, c. 12, st. 32.

<sup>3</sup> IV, iv, 108, 115.

<sup>4</sup> Massinger, *City Madam*, IV, iii.

<sup>5</sup> Jonson, *Poetaster*, III, i.

<sup>6</sup> Webster et al., *Westward Ho*, III, ii.

<sup>7</sup> I, ii, 1-3.

<sup>8</sup> Greene, *ante*, p. 86.

<sup>9</sup> Fuller.

Also by a passage in Johnson's *Every Man in his Humor* : —

"But say you were bound to the peace, the law allows you to defend yourself." <sup>1</sup>

*Form of oath.* The form of oath, in *The Winter's Tale*, to the messengers who brought back the response from the oracle is thought by Campbell to have some legal flavor; but this is certainly slight. In *The Tempest* is found the phrase : —

"Come swear to that; kiss the book." <sup>2</sup>

Jonson, in *The Staple of News*, has a form of oath to a witness : —

"Speak what thou heardst, the truth, and the whole truth, and nothing but the truth." <sup>3</sup>

In *The New Inn* : —

"To tell the truth, the whole truth and nothing but the truth. So help thee Love." <sup>4</sup>

And in *The Poetaster*, to one of the triers : —

"To judge this case with truth and equity." <sup>5</sup>

The phrase "kiss the book" occurs in Middleton's *Family of Love*, <sup>6</sup> and twice in Beaumont and Fletcher's *Women Pleased*. <sup>7</sup>

*Appeal.* In *King Henry VIII* Queen Katharine claims a right of "appeal."

<sup>1</sup> IV, v.

<sup>2</sup> II, ii, 132.

<sup>3</sup> V, i.

<sup>4</sup> IV, iii.

<sup>6</sup> V, i.

<sup>6</sup> V, iii.

<sup>7</sup> II, vi; III, ii.

"I do refuse you for my judge ; and here,  
Before you all, appeal unto the pope,  
To bring my whole cause 'fore his holiness,  
And to be judged by him." <sup>1</sup>

So, elsewhere : —

"I appeal from thee to Cæsar." <sup>2</sup>

*Nonsuit.* Shakespeare uses the term "non-suit : " —

"Nonsuits my mediators." <sup>3</sup>

Other writers also used it.

"You 'll be nonsuited." <sup>4</sup>

"Those are nonsuited, and flung o'er the bar." <sup>5</sup>

"This joy, when God . . . nonsuits the devil." <sup>6</sup>

*Bar.* "Bar" is used by Shakespeare as a noun, in the sense of obstruction ; also as a verb, meaning the same as debar.

"Since this bar in law makes us friends." <sup>7</sup>

"We 'll bar thee from succession." <sup>8</sup>

"To bar thee of succession." <sup>9</sup>

A similar use of the noun is found in other writers.

"He pleads my want of wealth,  
And says it is a bar in Venus's court." <sup>10</sup>

"She's mine without exception, bar, or clause." <sup>11</sup>

<sup>1</sup> II, iv, 119.

<sup>2</sup> Jonson, *Poetaster*, V, i.

<sup>3</sup> *Othello*, I, i, 16.

<sup>4</sup> Dekker, *If This be not a Good Play*.

<sup>5</sup> Beaum. and Fletcher, *A Wife for a Month*, V, iii.

<sup>6</sup> *Century Dict.*, citing T. Adams.

<sup>7</sup> *Taming of the Shrew*, I, i, 131.

<sup>8</sup> *Winter's Tale*, IV, iv, 421.

<sup>9</sup> *Cymbeline*, III, iii, 102.

<sup>10</sup> *Wily Beguiled*.

<sup>11</sup> Barry, *Ram Alley*, IV, i.

*Grand jury.* Grand jurymen are mentioned in Twelfth Night,<sup>1</sup> and a grand jury is spoken of in Beaumont and Fletcher's Faithful Friends.<sup>2</sup>

*Twelve godfathers.* A jury is spoken of as twelve godfathers in The Merchant of Venice.<sup>3</sup>

Jonson, in The Devil is an Ass, says : —

" I will leave you

To your godfathers in law : let twelve men work." <sup>4</sup>

*Suborning witnesses.* "Suborning a witness" is spoken of by Shakespeare, and also by Jonson.

" But now I find I had suborned the witness,  
And he 's indicted falsely." <sup>5</sup>

" It was he indeed  
Suborned us to the calumny." <sup>6</sup>

*Trials, their procedure and incidents.* In King Lear there is an imaginary trial of two daughters. In The Winter's Tale there is a trial of Hermione. In the 46th Sonnet Shakespeare describes a legal controversy between " mine eye and heart," using the terms " plead," " defendant," " impanelled," " quest," " tenants," and " verdict."

" See how yond justice rails upon yond simple thief.  
Hark in thine ear. Change places, and handy-dandy,  
which is the justice, which is the thief ?" <sup>7</sup>

<sup>1</sup> III, ii, 15.

<sup>3</sup> IV, i, 393-395.

<sup>6</sup> Othello, III, iv, 154.

<sup>7</sup> K. Lear, IV, vi, 151.

<sup>2</sup> II, ii.

<sup>4</sup> V, iii.

<sup>6</sup> Jonson, The Poetaster, V, i.

"The jury passing on the prisoner's life  
 May in the sworn twelve have a thief or two  
 Guiltier than him they try."<sup>1</sup>

"You wear out a good wholesome forenoon in hearing a cause between an orange-wife and a fosset-seller, and then rejourne the controversy of three-pence to a second day of audience. When you are hearing a matter between party and party, if you chance to be pinched with the colic, you make faces like mummers."<sup>2</sup>

The accounts of the trials in Shirley's *Traitor* and in Peele's *Arraignment of Paris* have already been referred to (ante, p. 68). Trials are familiar material with dramatists. For example, in Dekker's *If This be not a Good Play* a court was convened in hell, and a jury impanelled and sworn. In Jonson's *Poetaster* the prisoner was arraigned, an oath was administered to the triers, and there was a full trial. It is there noted that "the crier of the court hath too clarified a voice." In *The New Inn* the crier and the clerk are spoken of. In *The Faerie Queene* a jury was impanelled;<sup>3</sup> and in an earlier passage the administration of justice was described as follows:—

"She was about affairs of common weal,  
 Dealing of justice with indifferent grace,  
 And hearing pleas of people mean and base,  
 'Mongst which, as then, there was for to be heard  
 The trial of a great and weighty case  
 Which on both sides was then debating hard."<sup>4</sup>

<sup>1</sup> *Measure for Measure*, II, i, 19.

<sup>2</sup> *Coriolanus*, II, i, 63.

<sup>3</sup> B. 6, c. 7, st. 34.

<sup>4</sup> B. 5, c. 9. st. 36.

Then there was a trial of Duessa ; many grave persons or impersonations argued against her, and many advocates for her.<sup>1</sup>

“The office of justice is perverted quite  
When one thief hangs another.”<sup>2</sup>

The term “oyez” is used by Jonson in *The New Inn*, and by Dekker in *If This be not a Good Play*.

“Proclaim silence in the court.”<sup>3</sup>

“Every man or woman, keep silence, pain of imprisonment.”<sup>4</sup>

“I am to appear in court here, to answer to one that has me in suit.”<sup>5</sup>

*Plaintiff.* Parties to actions are mentioned, as follows : —

“Thou shalt be both the plaintiff and the judge  
Of thine own cause.”<sup>6</sup>

“*Virg.* What says the plaintiff?

*Hor.* I am content.”<sup>7</sup>

“Where are these fellows that are the plaintiffs?”<sup>8</sup>

“Are you the plaintiff here?”<sup>9</sup>

“Notice is given by the court  
To the appellant and defendant.”<sup>10</sup>

*Witnesses.* Witnesses are also referred to : —

“Suborned the witness.”<sup>11</sup>

<sup>1</sup> St. 43-50.

<sup>3</sup> Jonson, *Poetaster*, V, i.

<sup>5</sup> Jonson, *Poetaster*, III, i.

<sup>7</sup> Jonson, *Poetaster*, V, i.

<sup>9</sup> Middleton, *Phoenix*, V, i.

<sup>11</sup> *Othello*, ante, p. 81.

<sup>2</sup> Webster, *Duchess of Malfi*, IV, ii.

<sup>4</sup> Jonson, *New Inn*, III, ii.

<sup>6</sup> *Twelfth Night*, V, i, 341.

<sup>8</sup> Greene et al., *Looking Glass*.

<sup>10</sup> Jonson, *New Inn*, III, ii.

"Come into court and give your evidence, upon pain of that which shall ensue."<sup>1</sup>

"I have seen a handsome cause so foully lost, sir,  
So beastly cast away, for want of witnesses."<sup>2</sup>

*Justice.* Justices also :—

"Justice of peace and coram."<sup>3</sup>

"A justice of the peace, and lately of the quorum."<sup>4</sup>

"Justices of coram nobis."<sup>5</sup>

"Justice of assize."<sup>6</sup>

*Brother justice.* "My brother justice" is found in *Measure for Measure*.<sup>7</sup> Dekker speaks of "brother knights" and "brother captain."

*Inns of court.* "Inns o' court" are mentioned in 2 King Henry IV.<sup>8</sup> Inns of court are also spoken of by Jonson in *The Devil is an Ass*,<sup>9</sup> and by Barry in *Ram Alley*; and Inns of chancery are also mentioned in the latter play.

*Lawyers, etc.* There are frequent references to lawyers, attorneys, counsellors, solicitors, etc., both in Shakespeare and in other dramatists.

"Crack the lawyer's voice."<sup>10</sup>

<sup>1</sup> Middleton, *Family of Love*, V, iii.

<sup>2</sup> Beaum. and Fletcher, *Spanish Curate*, III, i.

<sup>3</sup> *Merry Wives*, I, i, 4.

<sup>4</sup> Jonson, *Bartholomew Fair*, II, i.

<sup>5</sup> Jonson, *Tale of a Tub*, III, i.

<sup>6</sup> *Ib.*, III, iii.

<sup>7</sup> *Measure for Measure*, III, ii, 236.

<sup>8</sup> III, ii, 12.

<sup>9</sup> III, i.

<sup>10</sup> *Timon of Athens*, IV, iii, 152.

"The breath of an unfeed lawyer." <sup>1</sup>

"Windy attorneys to their client woes." <sup>2</sup>

"Die by attorney." <sup>3</sup>

"And will have no attorney but myself." <sup>4</sup>

"Good counsellors lack no clients." <sup>5</sup>

"Thy solicitor shall rather die  
Than give thy cause away." <sup>6</sup>

"Pleader." <sup>7</sup>

"And do as adversaries do in law,  
Strive mightily, but eat and drink as friends." <sup>8</sup>

The following examples are from other dramatists.

"For lawyers that will ante-date their writs." <sup>9</sup>

"But he is the very miracle of a lawyer,  
One that persuades men to peace, and compounds quarrels  
Among his neighbors, without going to law." <sup>10</sup>

"*Lady L. Will Master Practice be of counsel against us ?  
Compass. He is a lawyer, and must speak for his fee  
Against his father and mother, all his kindred,  
His brothers or his sisters ; no exception  
Lies at the common law.*" <sup>11</sup>

"They say you have retained brisk Master Practice  
Here, of your counsel." <sup>12</sup>

"To plead or answer by attorney." <sup>13</sup>

<sup>1</sup> K. Lear, I, iv, 128.

<sup>2</sup> K. Rich. III, IV, iv, 127.

<sup>3</sup> As You Like It, IV, i, 83.

<sup>4</sup> Comedy of Errors, V, i, 100.

<sup>5</sup> Measure for Measure, I, ii, 101.

<sup>6</sup> Othello, III, iii, 27.

<sup>7</sup> Coriolanus, V, i, 36.

<sup>8</sup> Taming of the Shrew, I, ii, 274.

<sup>9</sup> Webster, White Devil, III, iii.

<sup>10</sup> Webster, Devil's Law Case, II, i.

<sup>11</sup> Jonson, Magnetic Lady, II, i.

<sup>12</sup> *Ib.*

<sup>13</sup> Peele, Arraignment of Paris, IV, iv.

"By attorney." <sup>1</sup>

"Country attorney." <sup>2</sup>

"My forehead has more crumples than the back part of a counsellor's gown." <sup>3</sup>

"*Knowell*. I suspect you shrewdly for being of counsel with my son against me.

*Brainworth*. Yes, faith, I have, sir, though you retained me doubly this morning for yourself." <sup>4</sup>

"*Ingenioso*. Good Master Recorder, let me retain you this term — for my cause, good Master Recorder.

*Recorder*. I am retained already on the contrary part. I have taken my fee." <sup>5</sup>

"Thou shalt be my solicitor." <sup>6</sup>

"The bars of our litigious courts had wont  
To crack with thronging pleaders, whose loud din  
Shook the infernal hell." <sup>7</sup>

"The pleader." <sup>8</sup>

"Allow the man his advocate." <sup>9</sup>

"The noise of clients at my chamber door  
Was sweeter music far, in my conceit,  
Than all the hunting in Europe." <sup>10</sup>

"A client of mine." <sup>11</sup>

"Here stand I for my client, this gentleman." <sup>12</sup>

<sup>1</sup> Webster et al., *Westward Ho*, III, i; Middleton et al., *A Fair Quarrel*, II, i.

<sup>2</sup> Webster et al., *Westward Ho*, III, ii.

<sup>3</sup> *Ib.*, II, i.

<sup>4</sup> Jonson, *Every Man in his Humor*, V, i.

<sup>5</sup> *Return from Parnassus*, IV, ii.

<sup>6</sup> Jonson, *The Poetaster*, I, i.

<sup>7</sup> Dekker, *If This be not a Good Play*.

<sup>8</sup> Jonson, *The Poetaster*, I, i.

<sup>9</sup> Peele, *Arraignement of Paris*, IV, iv.

<sup>10</sup> Webster, *Devil's Law Case*, II, i.

<sup>11</sup> *Wily Beguiled*.

<sup>12</sup> Barry, *Ram Alley*, V, i.

“The pleasure  
In taking clients’ fees, and piling them  
In several goodly rows before my desk.”<sup>1</sup>

“Can I think  
That you have half your lungs left, with crying out  
For judgments and days of trial?”<sup>2</sup>

There is in this play a long court scene, with a lawyer’s speech, which the court tries to shorten.

“Signor Contilupo, the court holds it fit  
You leave this stale declaiming ’gainst the person,  
And come to the matter.”<sup>3</sup>

“I have not been your worst of clients.”<sup>4</sup>

In Beaumont and Fletcher’s *Honest Man’s Fortune*, there is also a description of an advocate’s speech in court.

*Charged upon interrogatories.* The phrase “charge us there upon interrogatories” in the *Merchant of Venice*<sup>5</sup> has been thought to show a familiarity with proceedings for contempt. This phrase is also used in equity, and the word is used by other authors: “He has me upon interrogatories.”<sup>6</sup> “And the devil comes, we’ll put him to his interrogatories, and not budge a foot.”<sup>7</sup> It also occurs in the passage already cited from Jonson’s *Silent Woman*, ante, p. 30.

<sup>1</sup> Webster, *Devil’s Law Case*, II, i.

<sup>2</sup> *Ib.*, II, i.

<sup>4</sup> Jonson, *The Fox*, I, i.

<sup>6</sup> Jonson, *Cynthia’s Revels*, IV, i.

<sup>3</sup> *Ib.*, IV, ii.

<sup>5</sup> V, i, 298.

<sup>7</sup> *Merry Devil of Edmonton*.

*Time personified.* Time is personified as a justice in *As You Like It*,<sup>1</sup> and as an arbitrator in *Troilus and Cressida*.<sup>2</sup> Time is also personified in other capacities by Dekker, by Middleton, by Beaumont and Fletcher, by Jonson, and by Milton.

*Quiddities and quillets.* The terms "quillets" and "quiddities" are used in different plays by Shakespeare. The term "quiddet" is also found in Jonson's *Every Man out of his Humor*, and in Heywood's *Fair Maid of the West*; "quiddities" in *The Pinner of Wakefield*, and in Machin's *Dumb Knight*; "quillets" in Barry's *Ram Alley*; and "law-quillets" in Middleton's *Trick to Catch the Old One*.

*Lawful prize.* Iago,<sup>3</sup> in referring to Desdemona, uses the expression "lawful prize." Spenser also, in *The Faerie Queene*, speaks of a woman as a prize.

"Wherefore he now begun  
To challenge her anew, as his own prize,  
Whom formerly he had in battle won,  
And proffer made by force her to reprice." <sup>4</sup>

*Law's delay.* Hamlet<sup>5</sup> speaks of "the law's delay." This was no secret.

<sup>1</sup> IV, i, 178.

<sup>2</sup> *Othello*, I, ii, 51.

<sup>5</sup> III, i, 72.

<sup>2</sup> IV, v, 225.

<sup>4</sup> B. 4, c. 4, st. 8.

"Cures are like causes in law, which may be lengthened or shortened at the discretion of the lawyer ; he can either keep it green with replications or rejoinders, or,"<sup>1</sup> etc.

"Motion ! Why like the motion in law, that stays for a day of hearing."<sup>2</sup>

*Scrivener.* In *The Taming of the Shrew*<sup>3</sup> a scrivener is sent for to draw a marriage settlement. Scriveners were a class below the attorneys, and were often employed to draw legal instruments of the simpler kind ; though in *Jonson's Magnetic Lady*<sup>4</sup> it is said that the prelate of the parish "draws all the parish wills." *Milton's* father was a scrivener. Scriveners are mentioned in *Beaumont and Fletcher's Night Walker*,<sup>5</sup> in *Wilkins's Miseries of Enforced Marriage*, in *Jonson's Every Man in his Humor*, in *Cook's Tu Quoque*, and in *Donne's Seventeenth Elegy*. A scrivener is one of the characters in *Ralph Roister Doister*.

*Ideal commonwealth.* *Gonzalo's* ideal commonwealth, in *The Tempest*, savors somewhat of a legal description, though few strictly legal terms are used.

"I' the Commonwealth I would by contraries  
Execute all things ; for no kind of traffic  
Would I admit ; no name of magistrate ;

<sup>1</sup> Chapman, *All Fools*, III, i.

<sup>2</sup> Webster et al., *Westward Ho*, I, i.

<sup>3</sup> IV, iv, 59.

<sup>4</sup> I, i.

<sup>5</sup> I, i.

Letters should not be known ; riches, poverty,  
 And use of service, none ; contract, succession,  
 Bourn, bound of land, tilth, vineyard, none ;  
 No use of metal, corn, or wine, or oil ;  
 No occupation ; all men idle, all ;  
 And women too, but innocent and pure ;  
 No sovereignty.”<sup>1</sup>

This, no doubt, was founded upon a passage in Florio’s *Montaigne*, cited by Furness, as follows : —

“ It is a nation, would I answer Plato, that hath no kind of traffic, no knowledge of letters, no intelligence of numbers, no name of magistrate, nor of politike superiority ; no use of service, of riches, or of poverty ; no contracts, no successions, no partitions, no occupation but idle ; no respect of kindred, but common, no apparel but natural, no manuring of lands, no use of wine, corn, or metal.”

*Sue his livery.* In King Richard II the phrase “ to sue his livery ” occurs in the following passage : —

“ If you do wrongfully seize Hereford’s rights,  
 Call in the letters patent that he hath  
 By his attorneys general to sue  
 His livery, and deny his offered homage,  
 You pluck a thousand daggers on your head.”<sup>2</sup>

This is founded on a passage in *Holinshed*, cited by Heard, where similar language is used. The same phrase is also found in 1 King Henry IV :<sup>3</sup> —

“ He came but to be duke of Lancaster,  
 To sue his livery and beg his peace.”

<sup>1</sup> II, i, 141.

<sup>2</sup> II, i, 201.

<sup>3</sup> IV, iii, 61.

This, as described by Campbell, was a proceeding to be taken by a ward of the crown, on coming of age, to obtain possession of his lands, which the king had held as guardian in chivalry during his minority. It is referred to by several other writers, and was then familiar : —

“ Our little Cupid hath sued livery,  
And is no more in his minority.”<sup>1</sup>

“ Sued his livery.”<sup>2</sup>

“ I ’ll sue out no man’s livery but mine own.”<sup>3</sup>

“ Before he sue his livery.”<sup>4</sup>

“ It concerned them first to sue out their livery from the unjust wardship.”<sup>5</sup>

*Administration of justice partial.* The idea that the rich or powerful may escape the law’s penalties is often expressed, not only by Shakespeare, but by other writers : —

“ Plate sin with gold,  
And the strong lance of justice hurtless breaks ;  
Arm it in rags, a pigmy’s straw doth piece it.”<sup>6</sup>

“ ’T is gold  
Which makes the true man killed, and saves the thief.”<sup>7</sup>

“ Great men may jest with saints ; ’t is wit in them,  
But in the less foul profanation.”<sup>8</sup>

<sup>1</sup> Donne, Ecl., December 26, 1613.

<sup>2</sup> Fletcher, *The Woman’s Prize*, II, i.

<sup>3</sup> Jonson, *Staple of News*, I, i.

<sup>4</sup> Wilkins, *Miseries of Enforced Marriage*, I.

<sup>5</sup> *Century Dict.*, citing Milton.

<sup>6</sup> K. Lear, IV, vi, 165.

<sup>7</sup> *Cymbeline*, II, iii, 70.

<sup>8</sup> *Measure for Measure*, II, ii, 127.

"That in the captain's but a choleric word,  
Which in the soldier is flat blasphemy." <sup>1</sup>

"My lords, the law  
Is but the great man's mule; he rides on it,  
And tramples poorer men under his feet.  
Yet when they come to knock at yond' bright gate  
One's rags shall enter 'fore the other's state." <sup>2</sup>

"Great men, like great flies, through law's cobwebs break;  
But the thinnest frame the prison of the weak." <sup>3</sup>

"A duke's soft hand strokes the rough head of law,  
And makes it lie smooth." <sup>4</sup>

"This is the difference.  
All great men's sins must still be humored,  
And poor men's vices largely punished.  
The privilege that great men have in evil  
Is this, they go unpunished to the devil." <sup>5</sup>

"For some say some men on the back of law  
May ride and rule it like a patient ass,  
And with a golden bridle in the mouth  
Direct it unto anything they please.  
Others report it is a spider's web  
Made to entangle the poor helpless flies,  
While the great spiders that did make it first  
And rule it, sit i' th' midst, secure, and laugh." <sup>6</sup>

A judge of another sort is described in Dekker's *If This be not a Good Play*, as follows:—

"That day, from morn till night I'll execute  
The office of a judge, and weigh out laws  
With even scales."

<sup>1</sup> Measure for Measure, II, ii, 130.

<sup>2</sup> Beaumont, *Triumph of Love*, sc. vi.

<sup>3</sup> Webster, *Sir Thomas Wyatt*.

<sup>4</sup> Tourneur, *Revenger's Tragedy*, II, i.

<sup>5</sup> Barry, *Ram Alley*, V, i.

<sup>6</sup> N. Field, *A Woman is a Weathercock*, II, i.

And again : —

“The poor and rich man’s cause  
I’ll poise alike ; it shall be my chief care  
That bribes and wrangling be pitched o’er the bar.”

*Bankrupt.* Even the use of the term “bankrupt,” in *As You Like It*, is cited by Campbell as having some tendency to show acquaintance with legal proceedings. Very many writers, however, used it ; e. g., Webster and others, in *Westward Ho* ; Massinger, in *The Fatal Dowry*, and *The City Madam* ; Ford, in *Perkin Warbeck*, and *Love’s Sacrifice* ; Middleton, in *The Roaring Girl* ; Jonson, in *The Poetaster* ; Beaumont and Fletcher, in *The Laws of Candy* ; Wilkins, in *The Miseries of Enforced Marriage* ; and the author of *Wily Beguiled*, and of *Nobody and Somebody*.

*Comforting the king.* The phrase in *King Lear*,<sup>1</sup> “comforting the king,” is thought by Dr. Johnson (cited by Campbell) to be used in a juridical sense. Several instances of a similar use of the word “comforting” by other writers are cited in *Murray’s Dictionary*.

*Witness of a good conscience.* The phrase “witness of a good conscience,” in *The Merry Wives of Windsor*,<sup>2</sup> is cited by Campbell as having some legal flavor. “The testimony of a

<sup>1</sup> III, v, 19.

<sup>2</sup> IV, ii, 184.

good conscience" also is found in *Love's Labor's Lost*.<sup>1</sup> This phrase is scriptural rather than legal: Acts xxiii, 1; Rom. ii, 15; ix, 1; 2 Cor. i, 12; 1 Pet. iii, 16; 1 Tim. i, 5.

*As free as heart can wish.* The phrase; "As free as heart can wish or tongue can tell," used by Cade in 2 King Henry VI,<sup>2</sup> is also in part scriptural: Ps. lxxiii, 7.

*Libels.* "Libels" are mentioned in King Richard III.<sup>3</sup> Jonson also says: —

"A libel, Cæsar;  
A dangerous, seditious libel; a libel in picture."<sup>4</sup>

*Impress of shipwrights.* "Impress of shipwrights" is spoken of in *Hamlet*.

"Why such impress of shipwrights, whose sore task  
Does not divide the Sunday from the week?"<sup>5</sup>

The above passage, Campbell says, has been quoted to show that shipwrights as well as common seamen were liable to be pressed into service. No statement elsewhere has been found to the effect that they were so liable; and it is not clear that the passage should not rather be quoted to show a mistake by Shakespeare in the law. Common sailors were impressed. In 1596, while preparing for the expedition against Cadiz,

<sup>1</sup> IV, ii, 1.

<sup>2</sup> IV, vii, 117.

<sup>3</sup> I, i, 33.

<sup>4</sup> *The Poetaster*, v, 1.

<sup>5</sup> I, i, 75.

Sir Walter Raleigh wrote: "As fast as we press men one day they run away another, and say they will not serve."<sup>1</sup> In 1598 it is said, "In all the ports, the shipwrights were in full activity."<sup>2</sup> It is not stated whether they were impressed or not.

*Repeal.* The word "repeal" is used thus in *The Two Gentlemen of Verona*:—

"I here forget all former griefs,  
Cancel all grudges, repeal thee home again."<sup>3</sup>

The word is used by Shakespeare in a similar sense in several other plays.

It is also so used twice by Marlowe:—

"That Gaveston, my lord, shall be repealed."

"That he's repealed, and sent for back again."<sup>4</sup>

*Precedent.* The word "precedent" is used in various plays, as, e. g.:—

"'T will be recorded for a precedent."<sup>5</sup>

"Precedent" is a character in Machin's *Dumb Knight*.

*Order reversed.* The reversal of an order and of a doom is mentioned in Shakespeare, and

<sup>1</sup> Edwards's *Life of Raleigh*, 207.

<sup>2</sup> *Ib.*, 110.

<sup>3</sup> *V*, iv, 142.

<sup>4</sup> Marlowe, *Edw. II.*

<sup>5</sup> *Merch. Venice*, IV, i, 215.

the reversal of a judgment or sentence is found elsewhere.

"The order was reversed." <sup>1</sup>

"Reverse thy doom." <sup>2</sup>

"I thought thou hadst reversed the judgment." <sup>3</sup>

"Sue to reverse my sentence by appeal." <sup>4</sup>

There are in Shakespeare a few legal terms, phrases, and allusions, no close parallels to which have been noted elsewhere as yet. These are of no great significance as tending to show unusual technical knowledge. The following are examples: —

"According to our law  
Immediately provided in that case." <sup>5</sup>

"Between party and party." <sup>6</sup>

"Such abominable words as no Christian ear can endure to hear." <sup>7</sup>

"Purgation" in several plays.

Soldier not bound to obey legal summons in time of war. <sup>8</sup>

"Keep your fellows' counsels and your own." <sup>9</sup>

"Pater quem nuptiæ demonstrant." <sup>10</sup>

"To punish you by the heels." <sup>11</sup>

<sup>1</sup> K. Rich. III, II, i, 86.

<sup>2</sup> K. Lear, I, i, 148.

<sup>3</sup> Beaum. and Fletcher, *Honest Man's Fortune*, III, i.

<sup>4</sup> Peele, *Arraignment of Paris*.

<sup>5</sup> *Midsummer Night's Dream*, I, i, 44.

<sup>6</sup> *Coriolanus*, II, i, 67.

<sup>7</sup> 2 K. Hen. VI, IV, vii, 36.

<sup>8</sup> *Ib.*, I, ii, 127.

<sup>9</sup> *Much Ado*, III, iii, 78.

<sup>10</sup> The doctrine is explained in K. John, I, i, 116.

<sup>11</sup> 2 K. Hen. IV, I, ii, 117.

"I'll lay ye all  
By the heels, and suddenly."<sup>1</sup>

This, Campbell says, was the technical expression for committing to prison. Bishop Wordsworth says it was to put in the stocks.<sup>2</sup>

"An oath is of no moment, being not took  
Before a true and lawful magistrate,  
That hath authority over him that swears."<sup>3</sup>

"Thy lips is parcel of the mouth."<sup>4</sup>

"My lips are no common, though several they be."<sup>5</sup>

<sup>1</sup> K. Hen. VIII, V, iv, 75.

<sup>2</sup> Shakespeare and the Bible (3d ed.), 64.

<sup>3</sup> 3 K. Hen. VI, I, ii, 22.

<sup>4</sup> Love's Labor's Lost, II, i, 222.

<sup>5</sup> Merry Wives, I, i, 209.

## CHAPTER VI

### LEGAL TERMS AND ALLUSIONS FOUND IN OTHER WRITERS, BUT NOT IN SHAKESPEARE

A FEW other instances may perhaps be found where a legal allusion by Shakespeare cannot be paralleled elsewhere. But they cannot be by any means equal in number or importance to the instances of the use of legal terms and allusions by other writers, to which no parallel is found in Shakespeare. Examples of these will now be given.

*Jurisdiction in Equity.* Shakespeare nowhere alludes to the peculiar province of a court of equity. Holmes indeed says<sup>1</sup> that the writer of *The Merchant of Venice* "knew the exact difference between law and equity, and that while the courts of equity never override or contradict the positive law, still the sovereign power in the state, through the courts of equity acting on general principles of justice and mercy, will interfere to prevent the strict law from being made an instrument of fraud and injustice, contrary to the real intention of the law itself."

<sup>1</sup> Page 637.

One seeks in vain in the play for any intimation of equitable interference to prevent the law from being made an instrument of fraud and injustice. The functions of mercy and pardon are recognized and dwelt upon, but there is no suggestion of Antonio's obvious remedy in equity, namely, to get an injunction restraining the enforcement of the forfeiture. It need not be supposed that Shakespeare was ignorant of the distinction between law and equity. His practical experience in the litigation seeking to redeem his mother's estate, Asbies, would make him acquainted to some extent with proceedings in chancery. The controversy then existing as to the power of the chancellor to restrain proceedings at law must have been generally known. As a playwright, Shakespeare might ignore equitable jurisdiction and power; but would the future Lord Chancellor have done so? However this may be, the distinction in a general way between law and equity was familiar to other writers of about that time, as appears from numerous references to it, of which some examples will be given.

"The rigor and extremity of law  
Is sometimes too, too bitter; but we carry  
A chancery of pity in our bosom."<sup>1</sup>

"I beseech your Honor, be favorable to me in equity."<sup>2</sup>

<sup>1</sup> Ford, Perkin Warbeck, II, ii.

<sup>2</sup> Greene et al., Looking Glass, etc.

"Shepherd, thou hast been heard with equity and law."<sup>1</sup>

"Proceed in your chancery suit, I have begun your bill,  
Humbly complaining."<sup>2</sup>

"Or cannot you, that have the power  
To qualify the rigor of the laws  
When you are pleased, take a little from  
The strictness of your sour decrees, enacted  
In favor of the greedy creditors  
Against the o'erthrown debtor?"<sup>3</sup>

In *The Devil is an Ass*, Jonson speaks of  
"moving in a court of equity;"<sup>4</sup> and in *An  
Execration upon Vulcan* he says:—

"Lies there no writ out of the chancery  
Against this Vulcan? No injunction,  
No order, no decree? Though we be gone  
At common law, methinks in his despite  
A court of equity should do us right."

Spenser has the following allusions in the  
*Faerie Queene*:—

"For that a waif, the which by fortune came  
Upon your seas, he claimed as property;  
And yet nor his, nor his in equity,  
But yours the waif by high prerogative."<sup>5</sup>

"And equity to measure out along  
According to the line of conscience,  
Whensso it needs with rigor to dispense."<sup>6</sup>

"To you, that are our judge of equity."<sup>7</sup>

<sup>1</sup> Peele, *Arraignment of Paris*, IV, iv.

<sup>2</sup> Dekker, *If This be not a Good Play*.

<sup>3</sup> Massinger, *Fatal Dowry*, I, ii.

<sup>5</sup> B. 4, c. 12, st. 31.

<sup>7</sup> B. 5, c. 3, st. 36.

<sup>4</sup> V, iii.

<sup>6</sup> B. 5, c. 1, st. 7.

"And in her person cunningly did shade  
That part of justice which is equity."<sup>1</sup>

Richard Hooker says : —

"We see in contracts, and other dealings which daily pass between man and man, that, to the utter undoing of some, many things by strictness of law may be done which equity and honest meaning forbiddeth. Not that the law is unjust, but imperfect ; nor equity against, but above, the law, binding men's consciences in things which law cannot reach unto."<sup>2</sup>

*Livery of seisin.* Shakespeare uses the phrase "sue his livery," but not the phrase "livery of seisin" or the word "seisin." Other writers, however, use them.

"That's livery and seisin in England."<sup>3</sup>

"And get the feoffment drawn, with a letter of attorney,  
For livery and seisin. . . .

But, sir, you mean not to make him feoffee?"<sup>4</sup>

"I have taken livery and seisin of the wench."

"These lips have taken seisin."<sup>5</sup>

"She gladly did of that same babe accept  
As of her own, by livery and seisin."<sup>6</sup>

Dekker also mentions liveries in the *Gull's Horn Book*.

*Charitable or pious uses.* No mention is found in Shakespeare of charitable or pious

<sup>1</sup> B. 5, c. 7, st. 3.

<sup>2</sup> Eccl. Pol., B. v, c. ix, § 2.

<sup>3</sup> Webster, *Devil's Law Case*, I, ii.

<sup>4</sup> Jonson, *The Devil is an Ass*, IV, ii.

<sup>5</sup> Barry, *Ram Alley*, IV, i.

<sup>6</sup> Spenser, *Faerie Queene*, B. 6, c. 4, st. 37.

uses and trusts. Other writers, however, refer to them.

"I have given that ring to charitable uses."<sup>1</sup>

"Give it to pious uses."<sup>2</sup>

"Our progress then  
Shall be to hospitals which good minded men  
Have built to pious uses."<sup>3</sup>

"I shall employ it all in pious uses,  
Founding of colleges and grammar schools,  
Marrying young virgins, building hospitals,  
And now and then a church."<sup>4</sup>

The above passage from *The Alchemist* obviously refers to St. 43 Eliz. c. 4, concerning charitable uses.

*Alluvion.* Shakespeare says nothing of "alluvion," but in the *Faerie Queene*, Spenser, through Artegall acting as arbitrator, correctly expounds the law of this subject, and proceeds, perhaps inaccurately, to apply this doctrine to goods which are a wreck of the sea, and cast or left by the sea upon land, as follows:—

"For what the mighty sea hath once possessed,  
And plucked quite from all possessors' hand,  
Whether by rage of waves that never rest,  
Or else by wreck that wretches hath distressed,  
He may dispose of by imperial right,  
As thing at random left, to whom he list."<sup>5</sup>

<sup>1</sup> Middleton, *Family of Love*, V, iii.

<sup>2</sup> Beaum. and Fletcher, *Spanish Curate*, III, ii.

<sup>3</sup> Dekker, *If This be not a Good Play*.

<sup>4</sup> Jonson, *The Alchemist*, II, i.

<sup>5</sup> B. 5, c. 4, st. 4, 5.

*Common, civil, and canon law.* Jonson speaks of the "common law" in *Every Man in his Humor*, in *The Magnetic Lady*, and in *The Staple of News*; and of the causes of divorce in the "canon law," with great elaboration, in *The Silent Woman*; and of the "civil law" in the same play. He also mentions the canon law in *The Magnetic Lady*. Webster refers to the civil law in *The Devil's Law Case*. In *Wily Beguiled*, it is said, "We'll ha' the common law o' the one hand, and the civil law o' the other." Shakespeare mentions none of these.

*Magna Charta.* In *The Staple of News*, and in *The New Inn*, Jonson refers to "Magna Charta," which Shakespeare omits to mention in *King John* or elsewhere. Would Bacon in writing upon *King John* have omitted *Magna Charta*?

*Legal authors.* So far as noted, Shakespeare refers to no legal author by name. Jonson mentions Plowden, Dyer, Brooke, and Fitzherbert in *Every Man out of his Humor*, and Littleton's *Tenures* in *The Staple of News*.<sup>1</sup> Littleton is also referred to in *The Return from Parnassus*; <sup>2</sup> and Marlowe, in *Dr. Faustus*, quotes from Justinian's *Institutes*.

<sup>1</sup> Ante, p. 30.

<sup>2</sup> Ante, p. 51.

*Statutes — laws.* Shakespeare seldom refers to particular statutory enactments; but particular statutes are cited by Jonson, in *The Alchemist*; <sup>1</sup> by Massinger, in *A New Way to Pay Old Debts*; <sup>2</sup> by Barry, in *Ram Alley*,<sup>3</sup> and in the following passages from the same play: —

“For all of his book-cases of Tricesimo Nono, and Quadragesimo Octavo.”

“Tricesimo primo Alberti Magni.”

“I say that William Smallshanks, madman, is by a statute made in Octavo of Richard Cordelion, guilty to the law of felony.”

“And by a statute  
Of tricesimo of the late Queen  
I will star-chamber you all for cozenage,  
And be by law divorced.”

Middleton, in *Anything for a Quiet Life*, speaks of the penal statutes.

Beaumont and Fletcher, in *The Coxcomb*,<sup>4</sup> allude to the statute against gypsies; and Jonson, in *The Poetaster*, to the statute of calumny.

“I’ll have the statute repealed for thee.”<sup>5</sup>

It may be unnecessary to dwell further upon instances of the use by different writers of legal terms, phrases, and allusions which are not to be met with in Shakespeare. But a list is appended, which, though no doubt it might be

<sup>1</sup> Ante, p. 45.

<sup>4</sup> II, ii.

<sup>2</sup> Ante, p. 77.

<sup>5</sup> III, i.

<sup>3</sup> Ante, p. 31.

enlarged by wider reading or more careful enumeration, may yet be sufficient to illustrate still further the freedom and frequency of such use by the writers of that time.

LEGAL TERMS NOT USED BY SHAKESPEARE, BUT USED BY  
OTHER WRITERS OF ABOUT THAT TIME.

*Alluvion.* Spenser: Faerie Queene.

*Annuity.* Massinger: City Madam.

*Appear* (in court). Jonson: Poetaster.

*Appellations.* Jonson: Silent Woman. Beaum. and Fletcher: Spanish Curate.

*Assumpsit.* Jonson: Alchemist.

*Attournments.* Merry Devil of Edmonton.

*Audita querela.* Middleton: Phoenix. Barry: Ram Alley.

*Bill of sale.* Webster: White Devil.

*Brooke.* Jonson: Every Man out of his Humor.

*Burgage.* Jonson: Staple of News.

*Canon lawyer.* Jonson: Silent Woman.

*Cap* (for *capias*). Beaum. and Fletcher: Knight of Burning Pestle.

*Capias.* Beaum. and Fletcher: Night Walker; Spanish Curate. Spenser: Faerie Queene.

*Capias utligatum.* Middleton: Phoenix.

*Certiorari.* Barry: Ram Alley. Tournour ("sasarara"): Revenger's Tragedy.

*Champerly* (a character). Histriomastix.

*Charitable uses.* Middleton: Family of Love.

*Citation.* Jonson: Silent Woman.

*Civil law.* Wily Beguiled. Jonson: Staple of News. Webster: Devil's Law Case.

*Common law.* Wily Beguiled. Jonson: Staple of News.

*Common lawyer.* Jonson: Magnetic Lady.

*Confessed judgment.* Webster : White Devil.  
*Consideration.* Jonson : Alchemist ; Bartholomew Fair.  
*Copyhold, or copyholder.* Jonson : Staple of News.  
 Beaum. and Fletcher : Wit without Money. Webster :  
 Cure for a Cuckold. Middleton : Family of Love. Cook :  
 Tu Quoque.

*Corpus cum causa.* Barry : Ram Alley.  
*Corpus juris canonici.* Jonson : Silent Woman.  
*Corpus juris civilis.* Jonson : Silent Woman.  
*Court day.* Chapman : All Fools.  
*Court roll.* Jonson : Staple of News.  
*Damnum reparabile.* Beaum. and Fletcher : Elder  
 Brother.

*Declaration.* Beaum. and Fletcher : Spanish Curate.  
 Chapman : All Fools.

*Decretals.* Spenser : Faerie Queene.  
*Dedimus potestatem.* Middleton : Phoenix.  
*Defeasance.* Chapman : All Fools. Ford : Perkin  
 Warbeck. Wily Beguiled.

*Demur.* Middleton : Old Law.  
*Demurrer.* Beaum. and Fletcher : Woman's Prize.  
*Discontinuance.* Barry : Ram Alley. Merry Devil of  
 Edmonton.

*Disparagement (of ward).* Jonson : Bartholomew Fair.  
*Disseised.* Donne : Litany.  
*Dyer.* Jonson : Every Man out of his Humor.  
*Ejectione firmæ.* Middleton : Trick to Catch the Old  
 One.

*Eloign.* Chapman : All Fools. Donne : Valediction to  
 his Book.

*Encumbered.* Massinger : City Madam.  
*Escheat ("cheat").* Webster : Duchess of Malfi.  
*Escuage.* Jonson : Staple of News.  
*Estate of perpetuity.* Middleton : Spanish Gypsy.  
 ("State of perpetuity.") Jonson : The Devil is an Ass.  
*Fitzherbert.* Jonson : Every Man out of his Humor.

*Foreman of a jury.* Webster and Dekker : Northward Ho.

*Forma juris.* Chapman ; All Fools.

*Forma pauperis.* Middleton : Widow. Massinger : New Way to Pay Old Debts. Dekker : Satiromastix. Ford : Broken Heart. Jonson : New Inn.

*Frank almoigne.* Jonson : Staple of News.

*Freehold.* Middleton : Family of Love. Jonson : New Inn.

*Garnishes.* Dekker : If This be not a Good Play.

*Grand serjeantry.* Jonson : Staple of News.

*Guildhall verdict.* Jonson : Every Man in his Humor.

*Habeas corpus.* Chapman et al. : Eastward Ho. Wily Beguiled.

*Habere facias possessionem.* Beaum. and Fletcher : Honest Man's Fortune.

*Heir-loom.* Tomkis : Albumazar.

*Hotch potch.* Return from Parnassus.

*Idem est non apparere et non esse.* Wily Beguiled.

*Impar lance.* Middleton : Anything for a Quiet Life.

*In jure civili.* Jonson : Silent Woman.

*In terrorem.* Chapman et al. : Eastward Ho.

*Jury of brokers.* Dekker : If This be not a Good Play.

*Justinian's Institutes.* Marlowe : Dr. Faustus.

*Latitat.* Webster : Cure for a Cuckold.

*Littleton.* Return from Parnassus. Jonson : Staple of News.

*Livery of seisin.* Webster : Devil's Law Case. Jonson : The Devil is an Ass. Barry : Ram Alley. Spenser : Faerie Queene.

*Magna Charta.* Jonson : Staple of News ; New Inn.

*Maintenance* (champertous). Jonson : Staple of News.

*Marriage per verba præsenti.* Webster : Duchess of Malfi. Cook : Tu Quoque (written contract, without a priest, will hold in law).

*Middlesex jury.* Jonson : The Devil is an Ass. Middleton : Trick to Catch the Old One.

*Mittimus.* Beaum. and Fletcher: Coxcomb; Knight of Burning Pestle. Massinger: New Way to Pay Old Debts. Barry: Ram Alley. How a Man may Choose a Good Wife.

*Mortmain.* Jonson: Staple of News.

*Nisi prius.* Heywood: English Traveller.

*Nunc pro tunc.* Middleton: Phoenix.

*Ore tenus.* Jonson: The Devil is an Ass. Webster: Devil's Law Case. Donne: 17th Elegy.

*Partition.* Middleton: Anything for a Quiet Life.

*Perpetuities.*<sup>1</sup> Donne: 4th Satire.

*Per quam regulam.* Barry: Ram Alley.

*Pie poudre court.* Jonson: Bartholomew Fair.

*Pious uses.* Jonson: Alchemist. Dekker: If This be not a Good Play. Middleton: Family of Love. Beaum. and Fletcher: Spanish Curate.

*Plowden.* Jonson: Every Man out of his Humor.

*Poll-deeds.* Chapman: All Fools.

*Posteas.* Beaum. and Fletcher: Wife for a Month.

*Procedendo.* Middleton: Phoenix.

*Qui tacet consentire videtur.* Middleton: Black Book.

*Quit claim.* Spenser: Faerie Queene.

*Rack their rents.* Middleton: Anything for a Quiet Life.

*Racking poor men's rents.* Nobody and Somebody.

*Re-entry.* Barry: Ram Alley.

*References.* Jonson: Silent Woman.

*Rejoinder.* Beaum. and Fletcher: Woman's Prize. Chapman: All Fools.

*Remove the cause* (by writ of error). Beaum. and Fletcher: Honest Man's Fortune.

*Replevy.* Spenser: Faerie Queene.

*Retain.* Return from Parnassus.

*Retained.* Jonson: Every Man in his Humor.

*Se defendendo.* Jonson: Staple of News.

<sup>1</sup> See also Estate of Perpetuity.

*Seisin.* Webster : Devil's Law Case. Jonson : The Devil is an Ass. Barry : Ram Alley. Spenser : Faerie Queene.

*Show cause.* Jonson : Every Man in his Humor.

*Socage.* Jonson : Staple of News.

*Spiritual Court.* May : The Heir.

*Statutes cited.* Jonson : Alchemist ; Poetaster. Massinger : New Way to Pay Old Debts. Barry : Ram Alley. Middleton : Anything for a Quiet Life. Beaum. and Fletcher : The Coxcomb.

*Subpœna.* Beaum. and Fletcher : Wife for a Month. Jonson : Staple of News.

*Suits die with the person.* Massinger : Fatal Dowry.

*Supersedeas.* Jonson : Poetaster. Cook : Tu Quoque.

*Supersedeas non molestandum.* Middleton : Phœnix.

*Supplicavit.* Middleton : Phœnix.

*Surrejoinder.* Chapman : All Fools.

*Tenant at Will.* Heywood : English Traveller.

*Tenant in common.* Nobody and Somebody.

*Tenant in dower, at will, for term of life.* Jonson : Staple of News.

*Testificandum.* Middleton : Phœnix.

*Tortious.* Spenser : Faerie Queene.

*To the contrary notwithstanding.* Ford : Perkin Warbeck.

*Westminster Hall.* Jonson : Staple of News. Cook : Tu Quoque.

*Writ of Appraisement.* Middleton : Phœnix.

*Writ of Error.* Beaum. and Fletcher : Honest Man's Fortune. Tourneur : Revenger's Tragedy.

*Writ of Privilege.* Jonson : New Inn.

*Writ of Summons.* Jonson : Staple of News.

It thus appears that legal terms and allusions were freely used by many other writers of the period besides Shakespeare. They may be found

in especial abundance in *The Poetaster*, *The Silent Woman*, *The Devil is an Ass*, *Bartholomew Fair*, and *The Staple of News*, by Jonson, as well as in others of his plays; in *The Phoenix* and *The Family of Love*, by Middleton; in *The Fatal Dowry*, *The City Madam*, and *A New Way to Pay Old Debts*, by Massinger; in *The Miseries of Enforced Marriage*, by Wilkins; in *All Fools*, by Chapman; in *The Arraignment of Paris*, by Peele; in *The Devil's Law Case*, by Webster; in *Sir Thomas Wyatt*, by Webster and others; in *If This be not a Good Play*, by Dekker; in *Ram Alley*, by Barry; in *Wily Beguiled* and *The Return from Parnassus*, by unknown authors; and in the *Faerie Queene*, by Spenser. With the exception of Middleton, it is not known that any of these writers ever studied law.

## CHAPTER VII

### BAD LAW, OR UNTECHNICAL USE OF LEGAL TERMS

It is usually assumed that Shakespeare's law was uniformly sound, and that his use of legal terms and phrases was always technically correct. Campbell has much to answer for in this respect. He incautiously speaks of "Shakespeare's frequent use of law phrases, and the strict propriety with which he always applies them ;"<sup>1</sup> and afterwards uses the following sweeping language : "Having concluded my examination of Shakespeare's juridical phrases and forensic allusions, on the retrospect I am amazed, not only by their number, but by the accuracy and propriety with which they are uniformly introduced. There is nothing so dangerous as for one not of the craft to tamper with our free-masonry."<sup>2</sup> "While novelists and dramatists are constantly making mistakes as to the law of marriage, of wills, and of inheritance, to Shakespeare's law, lavishly as he propounds it, there can neither be demurrer, nor bill of exceptions, nor writ of error."<sup>3</sup> Resting on this high authority, some subsequent writers, notably Elze,<sup>4</sup>

<sup>1</sup> Introd.

<sup>2</sup> Page 107.

<sup>3</sup> Page 108.

<sup>4</sup> Pages 86-88.

usually so careful, and Brandes,<sup>1</sup> seem to have assumed the correctness of these statements without examination. But it is a mistake to suppose that Shakespeare was always right in his legal doctrines or accurate in his use of legal terms. Some instances of errors and inaccuracies will be given. It is to be borne in mind that it was his habit, unless mention is made to the contrary, to apply the laws of England to all places and times.<sup>2</sup>

In the first place, there are four plays in which the action rests partly on bad law, namely, *The Merchant of Venice*, *All's Well that Ends Well*, *Measure for Measure*, and *Cymbeline*.

*Merchant of Venice.* Most of the extraordinary legal features of *The Merchant of Venice* have been noticed by others, and the comments of many writers may be found collected in Furness's Notes, and in his Appendix.<sup>3</sup> Holmes also dwells at length upon the Trial Scene.<sup>4</sup> Objections to the law of the play are also pointed out by Appleton Morgan, in *Shakespeare in Fact and in Criticism*, and in *The Shakespearean Myth*. Free use is here made of all these sources of information.

By the will of Portia's father, all of her suitors must submit to the test of the caskets, and

<sup>1</sup> Page 91.

<sup>2</sup> See Campbell, 56, quoting Dr. Johnson.

<sup>3</sup> Furness, *Merchant of Venice*, 403-420.

<sup>4</sup> Pages 780-800.

if unsuccessful must forever renounce marriage. This testamentary provision in restraint of marriage, with no means of enforcing it, would seem to have been the invention of a story-teller rather than of a lawyer.

Campbell incautiously says<sup>1</sup> that the trial "is duly conducted according to the strict forms of legal procedure." This is a surprising statement. There was a sort of tribunal. The parties in interest were in attendance, and the Duke and magnificoes were present, though they were not a court. What for? Apparently to see to the execution of the judgment or sentence of the law. Shylock had his knife and scales. The pound of flesh was to be cut off before their eyes. Entreaties for mercy had already been made in vain. The Duke renewed them. A tender of double the amount of money which had been lent was made and refused. Finally, the Duke announced that he had sent for Bellario, a learned doctor, to come and determine the matter. Bellario was not a Venetian, but a Paduan, and lived twenty-two miles away. The parties were not consulted as to his selection, but he, a stranger to the jurisdiction, was to come to Venice and act seemingly as a judge in the presence of the Duke and magnificoes. Bellario sent a letter saying that he was sick, and recommending as a substitute a young doctor from Rome,

<sup>1</sup> Page 50.

by name Balthasar. Doctor Bellario did not hesitate to play upon the Duke of Venice the trick of palming off Portia as a young doctor of laws from Rome, who could expound and determine the law of Venice. Such conduct, if it were possible under our system, would be good ground of disbarment here. So the assumed Balthasar came in, and was accepted by the Duke on the spot, and told to "take his place;" seemingly some position of authority, a quasi judge, as it were, and not merely an advocate. Balthasar said he was already thoroughly informed of the cause; he had learned the facts, and nobody asked how or where; and he at once assumed entire charge of the proceedings. In the course of the general conversation which followed, — for what was said can hardly be described otherwise than as a conversation, — this young doctor from Rome announced the following doctrines, which were accepted, or at least submitted to, on all hands as a correct exposition of the law of Venice: —

1. That the bond was valid, and that Shylock was not bound to accept the money which was tendered in court, even to twice or thrice the amount of the bond, but was lawfully entitled to cut off a pound of flesh nearest Antonio's heart.

2. That what he was entitled to was exactly one pound, neither more nor less, and not a

drop of blood; and that if he should take less than a pound, or shed a drop of blood, he should die, and all his goods be confiscated.

3. That he had forfeited his right to take even the principal of his money by refusing it in open court, and could not be allowed to receive it though Antonio was ready and willing to pay it, and should have nothing but the penalty of his bond.

4. Finally, without further formalities Balthasar adjudged that Shylock was liable to punishment for contriving against Antonio's life, and had forfeited one half of his goods to Antonio and the other half to the state; and that his life was in the Duke's mercy.

This is a very sudden turn from the trial of Antonio. The condemnation of Shylock to death, without presentation of charges against him or giving him any chance to be heard, is probably the most summary, informal, and irregular judicial trial for a capital offense known to history or fiction.

On Antonio's suggestion, the Duke was willing to dispense with the execution of Shylock, on condition that the latter should let Antonio have one half of his goods in trust, to render them upon Shylock's death to Jessica's husband; that he should become a Christian; and that he should record a gift of all he should die possessed of unto Lorenzo and Jessica. These

quasi-judicial proceedings being ended, the Duke intimated to Antonio that he had better pay Balthasar (the judge?) well; and three thousand ducats were offered at once, and declined.

Portia's rules of law will not bear examination. Such a condition of a bond probably would not even at that time have been valid, as it involved a homicide. But if valid, it would be no violation of the condition to cut off less than a pound, and the incidental flowing of blood could not make Shylock's act unlawful, since the cutting could not be done without it. Shylock would not lose the right to accept the money by a refusal at the outset of the tender in court. And if Shylock was guilty of unlawfully contriving against Antonio's life, was it in taking a bond which the doctor of laws from Rome pronounced to be valid, or in seeking to enforce that bond under the direction and very eye of the court?

Doyle's case in Nicaragua, cited by Furness, really bears but slight resemblance to this, in its procedure. The person there selected to determine the rights of the parties was impartial, and it was open to either party to object to him; and he was entitled to be paid a reasonable sum for his services, as arbitrators are in our own practice. He was brought in and accepted, as a referee or master in chancery might be here.

On the whole, the development of the law in

The Merchant of Venice bears no strong sign of Baconian origin, whether we look at the forms of procedure, or at the statement of substantial rules of law.

*All's Well that Ends Well.* In *All's Well that Ends Well*, the King of France assumed the power to compel his ward Count Bertram to marry Helena,<sup>1</sup> though Bertram remonstrated against being compelled to marry a poor physician's daughter.<sup>2</sup> He also assumed the power to compel any of the other lords in court to marry her.<sup>3</sup> Campbell takes it for granted that all of these young lords were also wards of the king, though the play contains no express statement to this effect; and he refers to this assumption of power as an illustration of Shakespeare's knowledge of the law of England respecting the wardship of minors, and the right of a guardian at his own pleasure to dispose of the minor in marriage.<sup>4</sup> But even while asserting Shakespeare's knowledge of the law upon this subject, he intimates that Shakespeare in this instance made a mistake in the application of this legal right, saying in a note that "according to Littleton, it is doubtful whether Bertram, without being liable to any penalty or forfeiture, might not have refused to marry Helena, on the ground

<sup>1</sup> II, iii, 148, 154, 155, 159.

<sup>2</sup> II, iii, 44, 50-54.

<sup>3</sup> II, iii, 112, 113.

<sup>4</sup> Pages 56-58.

that she was not of noble descent. The lord could not disparage the ward by a *mésalliance*. Co. Lit. 80 a."

It is quite clear that Shakespeare overlooked this feature of the law, which is thus explained in Bouvier's Law Dictionary, *nom.* "Disparagement." "The guardian in chivalry had the right of disposing of his infant ward in matrimony; and provided he tendered a marriage without disparagement or inequality, if the infant refused, he was obliged to pay a *valor maritaggi* to the guardian." This limitation of the guardian's right is treated of in 1 Pollock and Maitland's History of English Law, 299-302.

Wilkins shows his familiarity with the general doctrine of the guardian's right under ordinary circumstances, in the following lines: —

"You are his ward, being so, the law intends,  
He is to have your duty, and in his rule  
Is both your marriage, and your heritage;  
If you rebel 'gainst these injunctions,  
The penalty takes hold on you; which for himself  
He straight thus prosecutes; he wastes your land,  
Weds you where he thinks fit, sir; but if yourself  
Have of some violent humor matched yourself  
Without his knowledge, then hath he power  
To 'merce your purse, and in a sum so great  
That shall forever keep your fortunes weak."<sup>1</sup>

Jonson was acquainted not only with the

<sup>1</sup> Miseries of Enforced Marriage, Act I.

guardian's general right, but with its limitation, as is shown in the following passage from Bartholomew Fair : <sup>1</sup> —

"*Quar.* But how came you, Mistress Wellborn, to be his ward, or have relation to him at first ?

*Grace.* Faith, through a common calamity, he bought me, sir ; and now he will marry me to his wife's brother, this wise gentleman that you see ; or else I must pay value o' my land.

*Quar.* 'Slid, is there no device of disparagement, or so ? Talk with some crafty fellow, some picklock of the law ; would I had studied a year longer in the Inns of Court."

*Measure for Measure.* In *Measure for Measure*, Claudio was condemned to death for an assumed offense of which he was legally innocent. He was under "a true contract" to marry Juliet, and he said : —

"She is fast my wife,  
Save that we do the denunciation lack  
Of outward order : this we came not to,  
Only for propagation of a dower  
Remaining in the coffer of her friends." <sup>2</sup>

Claudio had taken Juliet for his wife, *per verba de præsenti*. According to the law in Shakespeare's time, cohabitation after such a precontract of marriage was not a crime. A formal solemnization of the marriage could have been enforced by either party. Neither of them could lawfully marry anybody else. Angelo's

<sup>1</sup> III, i.

<sup>2</sup> I, ii, 140.

precontract with Mariana was perhaps merely *per verba de futuro*, a mere executory contract to marry in the future. The legal effect and consequences of such a contract might not be the same. But Claudio's precontract, as he describes it, went further, and was a full contract *per verba de præsenti*. That he was legally innocent, see Jacob's Law Dictionary, nom. "Marriage;" 2 Kent. Com. 87; 1 Bishop, Marriage and Divorce, §§ 112, 256, 272. This effect of such a precontract was abolished by St. 26 Geo. II, c. 33. Campbell was familiar with the old law of precontract of marriage, and dealt with it in the case of *Regina v. Millis*, 10 Clark & Fin. 534, 763, 784; but he did not refer to it in his discussion of Shakespeare's Legal Acquirements. Some dramatists also knew of it. Webster, in *The Duchess of Malfi*, says:

"I have heard lawyers say, a contract in a chamber,  
Per verba præsenti is absolute marriage;"<sup>1</sup>

and Cook, in *Tu Quoque*, makes Spendall declare that a written contract of marriage, without a priest, is "strong and sufficient, and will hold in law." It is also quite probable, morally certain indeed, that Shakespeare himself knew the law in respect to such precontracts, for when he was about to marry, in 1582, a bond was given against impediments, in which "precontract"

<sup>1</sup> I, ii.

was expressly stipulated against.<sup>1</sup> He seems to have had such precontract in mind in writing King Richard III, III, vii, 177-191; but in Measure for Measure for dramatic purposes he chose to ignore it, and to assume that Claudio was legally guilty. A mere playwright might thus trifle with the law, but the future Lord High Chancellor of England would have been less likely to do so.

Claudio's legal innocence is pointed out by Boas,<sup>2</sup> and is dwelt upon by Castles in Shakespeare, Bacon, Jonson, and Greene.<sup>3</sup>

*Cymbeline.* In Cymbeline, the wager upon which Iachimo came to England was grossly immoral, and could never have supported an action at law;<sup>4</sup> but in the play lawful counsel were to be called in to draw covenants which should be valid in law.<sup>5</sup> The incident of the wager itself and the signing of articles were taken from Boccaccio, who might well allow persons to put their bets in writing, whether lawful or unlawful; but the employment of lawful counsel to set this bet down so as to make it binding in law is added by the playwright, and it does not smack of legal origin.

*Other instances.* Instances will now be given

<sup>1</sup> 2 H.-P. 55.

<sup>2</sup> Page 362.

<sup>3</sup> Pages 39, 94.

<sup>4</sup> Cowp. 729; 4 Campb. 152.

<sup>5</sup> I, iv, 138, 150, 159.

of incidental legal allusions, or use of legal terms or phrases, some of which are erroneous, and others are at least not entitled to commendation as felicitous illustrations of the proper use of technical language.

In *The Merchant of Venice*, Portia says : —

“ For the intent and purpose of the law  
Hath full relation to the penalty,  
Which here appeareth due upon the bond.” <sup>1</sup>

This probably means that the bond is valid, and that the penalty may lawfully be exacted ; but this meaning is not expressed with legal accuracy or propriety.

Take this passage from *Hamlet* : —

“ Who by a sealed compact,  
Well ratified by law and heraldry,  
Did forfeit, with his life, all those his lands  
Which he stood seised of, to the conqueror :  
Against the which, a moiety competent  
Was gaged by our king ; which had returned  
To the inheritance of Fortinbras,  
Had he been vanquisher ; as, by the same covenant  
And carriage of the article designed,  
His fell to Hamlet.” <sup>2</sup>

To say that our king gaged a moiety competent which would have returned to the inheritance of Fortinbras had he been vanquisher, as by the carriage of the article designed his fell

<sup>1</sup> IV, i, 242.

<sup>2</sup> I, i, 86.

to Hamlet, is not a clear or appropriate use of legal language in describing a sealed compact.

In Shakespeare's time the words "bequeath," "inherit," and perhaps "demise" were not exclusively legal terms, and no strong argument is to be derived from their use in a sense which would be technically inaccurate. The word "bequeath" is used several times for "give." It is also used for "offer" or "tender" in King John.

"To whom, with all submission, on my knee  
I do bequeath my faithful services  
And true subjection everlastingly." <sup>1</sup>

"Inherit" is used as meaning to possess or to obtain possession of, and once, in King Richard II, to put in possession. "Demise" is also used in the sense of to "give" or to "confer upon," in the following passage from King Richard III:—

"Tell me, what state, what dignity, what honor,  
Canst thou demise to any child of mine?" <sup>2</sup>

The word "demise," at least, seems to be here used not only in an untechnical, but in an unusual sense.

The use of the word "estate" as a verb, though somewhat common in Shakespeare, and

<sup>1</sup> V, vii, 103.

<sup>2</sup> IV, iv, 246.

though found occasionally in other dramatists, is also unusual if not unknown in the law.

The word "widow" is also used as a verb, as meaning to give the right of a widow, in the following passage from *Measure for Measure* : —

"For his possessions,  
Although by confiscation they are ours,  
We do instate and widow you withal,  
To buy you a better husband." <sup>1</sup>

No similar use of the word is known either in the law or elsewhere.

The word "heir" is used several times by Shakespeare, as also by some other writers, to signify one who is named by will for the succession. This use was possible, though exceptional, in law. In *As You Like It*, Celia, in speaking of her own father, says to Rosalind, "And, truly, when he dies, thou shalt be his heir;" <sup>2</sup> meaning that she herself would share her inheritance with Rosalind. This use of the word appears to be not only untechnical, but unique.

The word "dower" is often used by Shakespeare, but, so far as noticed, never by Bacon, for "dowry." In *All's Well that Ends Well*, Helena speaks of herself as dower to the widow's

<sup>1</sup> V, i, 420.

<sup>2</sup> I, ii, 15.

daughter, meaning that she would provide a dowry for her.

“Doubt not but heaven  
Hath brought me up to be your daughter’s dower,  
As it hath fated her to be my motive  
And helper to a husband.”<sup>1</sup>

This use of the word is untechnical and strange.

In *Timon of Athens*, the phrases “fracted dates,” “date-broke bonds,” and “due on forfeiture six weeks and past,” are all untechnical, though the meanings are obvious. The same may be said of the phrase “oaths descended into perjury,” in *The Two Gentlemen of Verona*.

In *King John* is found the line, —

“As seal to this indenture of my love.”<sup>2</sup>

“Indenture” seems to be used for assurance, or promise, or contract,<sup>3</sup> — an untechnical use of the word.

In *Winter’s Tale*,<sup>4</sup> “land-damn” apparently refers to some mode of legal punishment; but the term is unknown in the law. It has been conjectured that this term is a corruption;<sup>5</sup> but it appeared in all the *Folios*.

<sup>1</sup> IV, iv, 18.

<sup>2</sup> II, i, 20.

<sup>3</sup> Rolfe.

<sup>4</sup> II, i, 143.

<sup>5</sup> See Furness, *Winter’s Tale*, 84 n.

"Rejourn" for "adjourn," in *Coriolanus*,<sup>1</sup> is believed to be unknown in legal use, though in Richardson's *Dictionary* instances of its use are cited from Wotton, Burton, and North's *Plutarch*.

"Fee-grief," in *Macbeth*,<sup>2</sup> is a combination which is not found elsewhere.

"Crazed title," in *Midsummer Night's Dream*,<sup>3</sup> is not a legal epithet for a doubtful title.

"Enfeoffed himself to popularity," in *1 King Henry IV*,<sup>4</sup> is a violent and untechnical straining of the sense of the legal term.

"In lieu o' the premises" for "in consideration of," in *The Tempest*,<sup>5</sup> is unfamiliar, as a legal expression. The phrase is also found in *The Merchant of Venice*, and in *The Two Gentlemen of Verona*.

In *1 King Henry VI* the word "distrained" is untechnically used, as applied to a building, in the sense of "taken possession of."<sup>6</sup>

"Here's Beaufort, that regards nor God nor King,  
Hath here distrained the Tower to his use."<sup>7</sup>

In a passage heretofore cited from *Measure*

<sup>1</sup> II, i, 65.

<sup>2</sup> IV, iii, 196.

<sup>3</sup> I, i, 92.

<sup>4</sup> III, ii, 69.

<sup>5</sup> I, ii, 123. See Furness, *Tempest*, 42 n.

<sup>6</sup> Rolfe.

<sup>7</sup> I, iii, 60.

for Measure, ante, p. 119, the phrase "only for propagation of a dower" appears to be used as meaning the payment or settlement of a dowry, — a use of "propagation" unknown in the law, as well as a misuse of the term "dower."

Another passage in the same play is as follows : —

"And five years since there was some speech of marriage  
Betwixt myself and her ; which was broke off,  
Partly for that her promised proportions  
Came short of composition." <sup>1</sup>

"Proportions" appears to be used in the sense of dowry or fortune, which is untechnical.

In the same play, the sentence

"I am still  
Attorneyed at your service" <sup>2</sup>

is also untechnical.

The following passage in King John, if intended as legal phraseology, is quite unfamiliar :

"From whom hast thou this great commission, France,  
To draw my answer from thy articles?" <sup>3</sup>

The word "feodary" is found twice in Shakespeare, as follows : —

"Senseless bauble,  
Art thou a feodary for this act, and lookst  
So virgin-like without?" <sup>4</sup>

<sup>1</sup> V, i, 215.

<sup>3</sup> II, i, 110.

<sup>2</sup> V, i, 382.

<sup>4</sup> Cymbeline, III, ii, 20.

“ Else let my brother die,  
If not a feodary, but only he  
Owe and succeed thy weakness.”<sup>1</sup>

The word seems to be used in the sense of “ confederate ” or “ accomplice,” but it bears no such meaning in the law. In Murray’s Dictionary, it is said that it is used by Shakespeare in a sense due to an erroneous association with *foedus*.

The expression in Macbeth, “ the title is affeered,”<sup>2</sup> is supposed to mean settled or confirmed ; but in law the word would not have been used in that manner. Affeerers were persons “ appointed in court-leets upon oath to set the fines on such as have committed faults arbitrarily punishable, and have no express penalty appointed by the statute.”<sup>3</sup> Shakespeare’s father was an affeerer in 1559 and 1561.

The following passage is taken from Love’s Labor’s Lost : —

“ You three, Biron, Dumain and Longaville  
Have sworn for three years’ term to live with me  
My fellow-scholars, and to keep those statutes  
That are recorded in this schedule here.”<sup>4</sup>

A statute imports a legislative act ; or, if used here for “ edict,” even an edict stands of its

<sup>1</sup> Measure for Measure, II, iv, 121.

<sup>2</sup> IV, iii, 34.

<sup>3</sup> Cowel’s Law Dictionary.

<sup>4</sup> I, i, 15.

own force, and does not require an oath to support it in order to make it binding. Later in the play these statutes are called decrees, laws, and finally vow. The word seems to be used inaccurately for vows or resolves.

In *As You Like It* Duke Frederick says : —

“Make an extent upon his house and lands.”<sup>1</sup>

Furness shows<sup>2</sup> that this use of the process by extent could not legally be resorted to under the existing facts, because an extent could only be made after forfeiture or judgment. Campbell cites this passage as displaying a deep technical knowledge of law, not adverting to the objection pointed out by Furness.

In *3 King Henry VI*, King Henry says : —

“I here entail

The crown to thee and to thine heirs forever.”<sup>3</sup>

Davis<sup>4</sup> calls attention to the inaccurate use of the word “entail” in this passage, as the succession is not limited to a particular class of heirs. A like use of the word occurs later in the same scene : —

“To entail him and his heirs unto the crown.”

The word is correctly used in the passage cited from Massinger, ante, p. 51.

<sup>1</sup> III, i, 17.

<sup>2</sup> Furness, *As You Like It*, 136 n.

<sup>3</sup> I, i, 194.

<sup>4</sup> *The Law in Shakespeare*.

In Julius Cæsar, Antony, in describing Cæsar's will, says to the populace : —

“ Moreover he hath left you all his walks,  
His private arbors and new-planted orchards,  
On this side Tiber ; he hath left them you,  
And to your heirs forever ; common pleasures,  
To walk abroad and recreate yourselves.”<sup>1</sup>

In a devise or dedication of lands to the public, the words “to your heirs forever” are misplaced, as they would imply individual ownership, instead of a right vested in that indefinite body, the public. These words are not found in Plutarch, or Suetonius, or in Appian's Civil Wars,<sup>2</sup> or in any other account of Cæsar's will that I am aware of, and they were probably added by Shakespeare, who either did not know or overlooked their inappropriateness in a devise of this kind.

In 2 King Henry VI, Cardinal Beaufort says of Gloucester : —

“ Consider, lords, he is the next of blood,  
And heir apparent to the English crown.”<sup>3</sup>

The phrase “heir apparent” is mistakenly used for “heir presumptive.”

In Coriolanus, Sicinius says : —

<sup>1</sup> III, ii, 248.

<sup>2</sup> 1578, quoted in New Shakspeare Soc. Trans., 1875-76, p. 425.

<sup>3</sup> I, i, 146.

“ He hath resisted law,  
And therefore law shall scorn him further trial  
Than the severity of the public power,  
Which he so sets at nought.”<sup>1</sup>

And again : —

“ Therefore it is decreed  
He dies to-night.”<sup>2</sup>

Resisting law was no legal reason for denying him a trial. In point of fact, it was finally decided to proceed regularly by process.<sup>3</sup>

Campbell says that the imaginary trial of King Lear's two daughters is conducted in a manner showing a perfect familiarity with criminal procedure.<sup>4</sup> Yet he recognized the incongruity of placing Mad Tom, the robed man of justice, on the bench with the Fool, “ his yoke-fellow of equity.”<sup>5</sup> Regularity of procedure was not aimed at on this occasion, and so the irregularity furnishes no ground for criticism, but surely no argument in favor of Shakespeare's legal learning is to be derived from this scene.

In *Pericles* it is said : —

“ If a king bid a man be a villain, he 's bound by the indenture of his oath to be one.”<sup>6</sup>

The phrase “ indenture of his oath ” seems to

<sup>1</sup> III, i, 267.

<sup>3</sup> III, i, 314.

<sup>5</sup> III, vi, 37.

<sup>2</sup> III, i, 289.

<sup>4</sup> Page 82.

<sup>6</sup> I, iii, 7.

be quite incongruous, as oaths were not taken in the form of an indenture, so far as I am aware.

In *Much Ado about Nothing*,<sup>1</sup> Dogberry gave a charge to the watch. Campbell says of this that "there never has been a law or custom in England to give a charge to constables."<sup>2</sup> If this is so, Shakespeare appears to have fallen into an inadvertence as to the usage. Other writers, however, refer to such a charge in allusions<sup>3</sup> which raise a doubt as to Campbell's accuracy.

In the *Merchant of Venice*, Shylock says : —

"Go with me to a notary, seal me there  
Your single bond."<sup>4</sup>

Technically, a single bond was a bond without condition;<sup>5</sup> but Antonio's bond was to have a condition, and therefore it was inaccurately described as a single bond. The meaning intended appears to be, a bond without a surety.

Some of the foregoing instances may be susceptible of explanation negating their positive inaccuracy. On the other hand, other instances not cited here may be brought to notice by more

<sup>1</sup> III, iii.

<sup>2</sup> Page 45.

<sup>3</sup> Quoted by Furness, *Much Ado about Nothing*, 161 n.

<sup>4</sup> I, iii, 139.

<sup>5</sup> Co. Lit. 172; Shep. Touchst. 367. See Furness, *Merchant of Venice*, 50, 51 n.; Campbell, 49.

careful reading. Castles, indeed, in his Shakespeare, Bacon, Jonson, and Greene, cites some other instances, but to my mind they are not very significant.

This list of absolute mistakes is not very large, but it is sufficient to show that Shakespeare was fallible in his law, and indeed to suggest the doubt whether any other dramatist of his time fell into more legal errors than he did.

Upon a general view of the subject of Shakespeare's legal learning, the conclusion seems warranted that his knowledge of law as shown in the plays and poems can be accounted for without resorting to the theory that he was ever a lawyer, or even a lawyer's clerk; that his use of legal terms was not more copious in number or more profound in character than that of other non-legal writers of his time; that most of the legal terms and allusions found in Shakespeare can be paralleled in other writings of the same period; that many of them were borrowed from familiar sources; that he was not uniformly accurate or technically correct in his legal doctrines and allusions, and in his use of legal terms; and, in short, that no strong argument against the theory of Shakespearian authorship can be derived from the display of legal learning in the plays and poems.

## CHAPTER VIII

### SUPPOSED INDIFFERENCE TO FAME

It is sometimes suggested, as casting a doubt upon Shakespeare's authorship, that during his lifetime he showed great indifference in respect to the publication and preservation of the plays, and that he made no mention of them in his will. This suggestion is applicable to the author of the plays, whoever he was, and its only pertinency to the present inquiry lies in the argument that Bacon was more likely to show such indifference than Shakespeare, and that he had special reasons for concealing the authorship. So it is to be considered which of the two was the more likely to be indifferent in respect to the publication of the plays, and the accurate preservation of the text.

As a rule, in Shakespeare's time little care was taken by dramatic authors to preserve their plays as literature. Comparatively few of the plays then in use in the theatres have come down to us; Halliwell-Phillipps says not one in fifty.<sup>1</sup> Of those which have survived, many were not published till after the death of their authors.

<sup>1</sup> Vol. 1, p. 115.

The plays were written to be acted, and not with a primary purpose of having them printed. The publication of plays apparently yielded small profit, and might diminish the returns to be derived from their representation on the stage. The author no doubt was paid for them as they were furnished to be acted, and then they belonged to the theatre. They were kept as acting plays. *Macbeth*, *Othello*, *As You Like It*, *The Tempest*, *Cymbeline*, *Twelfth Night*, *The Winter's Tale*, *Measure for Measure*, *Julius Cæsar*, and *Antony and Cleopatra*, for example, were not printed till the Folio edition of 1623. The editors of that edition, Heminge and Condell, probably collected the stage copies, some of them being in manuscript and others in print. Some had been printed surreptitiously, but others probably under Shakespeare's sanction, though without very careful revision for the press.

Heywood gives a striking account of his own opinions and experience as to the publication of acting plays, in an Address to the Reader prefixed to his play of the *English Traveller*, printed in 1633. He says:—

“This tragi-comedy, (being one reserved amongst two hundred and twenty in which I have had either an entire hand, or at least a main finger), coming accidentally to the press,” etc. . . . “True it is that my plays are not exposed unto the world in volumes, to bear the title of Works, (as

others), one reason is that many of them by shifting and change of companies have been negligently lost. Others of them are still retained in the hands of some actors, who think it against their peculiar profit to have them come in print, and a third, that it never was any great ambition in me to be in this kind voluminously read."

And again in a similar address prefixed to his play of the Rape of Lucrece, he says : —

"It hath been no custom in me of all other men (Courteous Readers) to commit my plays to the press, . . . for though some have used a double sale of their labors, first to the stage, and after to the press, for my own part I here proclaim myself ever faithful in the first, and never guilty of the last; yet since some of my plays have (unknown to me and without any of my direction) accidentally come into the printers' hands, and therefore so corrupt and mangled (copied only by the ear) that I have been as unable to know them as ashamed to challenge them. This therefore I was the willinger to furnish out in his native habit."

A collected edition of Beaumont and Fletcher's plays was first published in 1647, twenty-two years after the death of Fletcher, the survivor of them. The prefatory Stationer's Epistle says :

"I had the originals from such as received them from the authors themselves. I should scarce have adventured in these slippery times on such a work as this, if knowing persons had not generally assured me that these authors were the most unquestionable wits this kingdom hath afforded."

These originals were also probably the stage copies.

In the Preface to *Les Précieuses Ridicules*, Molière says that he consented against his will

to the publication of it, in order to protect himself against a pilfered copy. Some of his plays were not printed till after his death.

In like manner the instance in modern times of that remarkable genius, Rufus Choate, may be cited. His biographer, Samuel G. Brown, says of him : —

“ With a singular and almost unaccountable indifference to fame, Mr. Choate took no pains to preserve his speeches. The manuscript of the lecture . . . had no sooner fulfilled its temporary purpose, than it was thrust among waste papers and forgotten.”<sup>1</sup>

Yet in spite of apparent indifference, Shakespeare may have intended before his death to collect and publish his plays, with his latest amendments and additions. Some color is given to this idea by the editors of the Folio edition, in their Address to the great variety of Readers.<sup>2</sup> He died, however, rather suddenly, at the age of fifty-two. The body of his will was drawn up probably while he was in fair health, and might himself expect to attend to the collection and publication of the plays. If they were owned by the theatre, this might be a reason for the omission to mention them. No dramatist or poet of that period is now recalled who made provision by his will for the posthumous publication of his writings. It certainly is known that Shakespeare was not always wholly indif-

<sup>1</sup> Works of Rufus Choate, etc., Pref. vi.

<sup>2</sup> See post, p. 268.

ferent to his literary reputation, because we have Heywood's direct statement that he was much offended when Heywood's poems were attributed to him;<sup>1</sup> though in other instances, so far as now known, he did not show a like sensitiveness. Various plays not now included among Shakespeare's works were ascribed to him either as sole or partial author. For example, *Oldcastle*, *The London Prodigal*, and *The Puritan* were separately published in quarto with his name, and *Cromwell*, *The Yorkshire Tragedy*, and *Lochrine*, with his initials, during his lifetime.<sup>2</sup> This shows at least that his name was thought to be a recommendation of a play.

The non-existence at the present time of plays, poems, or letters in Shakespeare's handwriting is not a fact of importance, as bearing upon the question of authorship. Such loss is common if not universal. Brandes<sup>3</sup> says there is an utter absence of any manuscripts belonging to Beaumont and Fletcher, or any other dramatic writer of the period. In Shakespeare's case, particular circumstances have been adverted to as accounting for the disappearance.<sup>4</sup> But explanation is hardly necessary, in view of the general loss of the manuscripts of others. Andrew Lang says that Molière left no manuscripts except in one or two legal deeds.<sup>5</sup>

<sup>1</sup> See post, p. 160.

<sup>2</sup> Page 678.

<sup>3</sup> In *London Illustrated News*.

<sup>4</sup> 2 Ward, 210.

<sup>5</sup> Elze, 4.

In respect to Bacon, assuming him to have been the author, two diverse if not inconsistent views have been suggested. One is, that he had such reasons for concealing the authorship that he did nothing to preserve the manuscripts, but destroyed them. The other is, that although he did not preserve the manuscripts, he did take pains to preserve the plays themselves, and in fact supervised the issue of the Folio edition in 1623. Some considerations bearing more directly upon the theory of Bacon's authorship will now be adverted to.

## CHAPTER IX

BACON AND HIS BIOGRAPHERS. — HIS CARE FOR HIS WRITINGS. — UNFAMILIARITY WITH ENGLISH PLAYS AND POETRY. — HIS OWN VERSES

FRANCIS BACON was the son of Sir Nicholas Bacon, Lord Keeper of the Great Seal. His mother was Ann, second daughter of Sir Anthony Cooke,<sup>1</sup> and was eminent for piety, virtue, and learning. He was born January 22, 1561, in York House in the Strand, London, and died in 1626. He was frail in health; he went to Trinity College, Cambridge, before he was thirteen; in 1576 he went to France for nearly three years; and after his father's death, in February 1579, he returned and applied himself to the study of law. It seems hardly too much to say that more is known of the details of his life than of the life of any other person of that time.

<sup>1</sup> Attempts have been made through cipher disclosures to show that Bacon was the son of Queen Elizabeth and the Earl of Leicester, and that he was the author not only of the Shakespearian plays, but also of works attributed to various other writers, including Greene, Marlowe, Peele, Spenser, and Burton. The enterprising character of these attempts becomes apparent upon a slight consideration of the problems that must be grappled with. This phase of the subject will not be dealt with in these Notes. It is briefly treated of in John Fiske's article in the *Atlantic Monthly* for November, 1897, *Forty Years of Bacon-Shakespeare Folly*; reprinted in *A Century of Science, and Other Essays*.

A biography of him was published in 1657<sup>1</sup> by William Rawley, D. D. (born 1588 ; died 1667), who had been chaplain and amanuensis or assistant to Bacon, and afterwards was chaplain to Kings Charles I and Charles II. He was thirty-eight years old at Bacon's death. His Life of Bacon is on all hands considered authentic. Hallam calls it "the best authority we have."<sup>2</sup> Spedding says that shortly after 1616 "Bacon, becoming lord keeper, selected him [Rawley] for his chaplain ; and during the last five years of his life, which were entirely occupied with literary business, employed him constantly as a kind of literary secretary."<sup>3</sup> Rawley is said to have been the only man among Bacon's personal acquaintances by whom any particulars of his life have been recorded ;<sup>4</sup> and after Bacon's death, he was intrusted by the executors with the care and publication of his papers. The memoir was published more than thirty years after Bacon's death, as an introduction to a volume called "Resuscitation ; or bringing into public light several pieces of the works, civil, historical, philosophical, and theological, hitherto sleeping, of the Rt. Hon. Francis Bacon," etc. Rawley himself certifies to his intimate familiarity with Bacon during the last years of the latter's life. In the Natural History published

<sup>1</sup> Republished in 1 Bacon, 33.

<sup>2</sup> Vol. 3, p. 97 n.

<sup>3</sup> 1 Bacon, History and Plan, etc., xv.

<sup>4</sup> *Ib.*

by Rawley in 1627, he prefixes an Address to the Reader, in which he says: "Having had the honor to be continually with my lord in compiling of this work, and to be employed therein, I have thought it not amiss . . . to make known somewhat of his lordship's intentions touching the ordering and publishing of the same."<sup>1</sup> And in the memoir he says: "The last five years of his life, being withdrawn from civil affairs and from an active life, he employed wholly in contemplation and studies. . . . In which time he composed the greatest part of his books and writings, both in English and Latin, which I will enumerate."<sup>2</sup> He adds, "I have myself seen at the least twelve copies of the Instauration, revised year by year one after another, and every year altered and amended in the frame thereof."<sup>3</sup>

Later biographers of Bacon have been numerous, including Campbell, Basil Montagu, W. Hepworth Dixon, Richard W. Church, Edwin A. Abbott, John Nichol, and especially James Spedding, who has brought before the world all the known writings of Bacon, with the fullest details in respect to his life. In the prefatory statement of the History and Plan of his edition of Bacon's works, he says that every authentic writing and every intelligibly reported speech of Bacon will be set forth at full length, with explanatory narrative, so that this will contain a

<sup>1</sup> 4 Bacon, 155.<sup>2</sup> 1 Bacon, 43.<sup>3</sup> 1 Bacon, 47.

complete biography of the man, — the most copious, minute, and fair that he can produce.<sup>1</sup> To this he afterwards added *The Letters and the Life of Bacon*, including all his Occasional Works, not already printed in the former edition. The letters are very numerous.

When preparing for death, Bacon wrote to the Bishop of Lincoln : —

“I find that the ancients, as Cicero, Demosthenes, Plinius Secundus, and others, have preserved both their orations and their epistles. In imitation of whom, I have done the like to my own, which nevertheless I will not publish while I live; but I have been bold to bequeath them to your lordship and Mr. Chancellor of the Duchy. My speeches perhaps you will think fit to publish: the letters many of them touch too much upon late matters of state to be published; yet I am willing they should not be lost.”

He thus provided for the preservation of writings which were to be withheld, for a time at least, from the public. In 1621 he made a draft of a will, containing a clause as follows : —

“My compositions unpublished, or the fragments of them, I require my servant Harris to deliver to my brother Constable, to the end that if any of these be fit in his judgment to be published, he may accordingly dispose of them.”

In his will, dated December 19, 1625, he provided for having fair books bound of all his writings, for different institutions of learning,

<sup>1</sup> Page xiii.

and said: "I have made up two register books," one being of orations and speeches, the other of epistles or letters. These he bequeathed to the Bishop of Lincoln. He commended the rest of his papers to the care of Sir John Constable and Mr. Bosville. These, Spedding thinks, probably remained locked up for fourteen months. Bosville went to the Hague, lived there several years, and died in 1647. He consulted Isaac Gruter about certain philosophical works written in Latin. The result was a volume published in 1653.<sup>1</sup>

It thus appears that the last five years of Bacon's life, from 1621 to 1626, were largely devoted to the composition or revision of his writings. He felt the importance of preserving what he had written, even though not intended for early publication, and he wrote and rewrote his principal works both in English and in Latin, being distrustful of the permanent vitality of English, as a classical language.<sup>2</sup> He left his unpublished manuscripts, and some that had been published, in fair copies, carefully corrected in his own handwriting. This supervision extended even to Fragments, referred to in the draft of his will in 1621. The following examples of these may be found in his works as now published: *Valerius Terminus*,<sup>3</sup> *Filum Labyrinthi*,<sup>4</sup> *Cogitata et Visa*,<sup>5</sup> *Calor et Frigus*.<sup>6</sup>

<sup>1</sup> 5 Bacon, 187, 188.

<sup>4</sup> *Ib.*, 415.

<sup>2</sup> 1 Bacon, xvi.

<sup>5</sup> 7 Bacon, 101.

<sup>3</sup> 6 Bacon, 9, 16.

<sup>6</sup> *Ib.*, 173.

Amongst other writings left by Bacon is the curious collection called *Promus*.<sup>1</sup> This was begun December 5, 1594, and consists of apophthegms, proverbs, verses from the Bible, lines from Latin poets, neatly turned sentences, forms of expression and of salutation, and scraps of various kinds. Mrs. Pott, the editor of a recent edition of *Promus*, says that the English proverbs are all taken from the single collection of J. Heywood's *Epigrams*, published in 1562.

Unfamiliarity with English plays and poetry.

Spedding also, in Bacon's *Letters and Life*, publishes a *Note-Book*, now in the British Museum, in Bacon's handwriting, dated in July, 1608, containing a memorandum of things to be done or to be borne in mind in his own affairs, and with frequent reference to his writings. This is so personal that Spedding hesitated to publish it.

In all of Bacon's writings which are extant, including his letters, his *Promus*, and his private *Note-Book*, there not only is no allusion to the plays and poems published as Shakespeare's, but there is nothing whatever to show that he had any familiarity with English poetry, dramatic or otherwise. Rawley mentions nothing of the kind in his memoir, and Spedding has discovered nothing. If Bacon had written the plays, and especially if he had revised the *Folio* edition

<sup>1</sup> 14 Bacon, 7.

for publication, it would seem that Rawley would have known it, and after thirty years would have felt free to mention it, especially when bringing to light other writings by him. Neither Rawley nor any other of Bacon's biographers gives any support to the idea of his authorship of the plays.

Reference is sometimes made to Bacon's expressed opinion of dramatic poetry, which was as follows : —

“Dramatic poesy, which has the theatre for its world, would be of excellent use if well directed. For the stage is capable of no small influence, both of discipline and of corruption. Now of corruptions in this kind we have enough ; but the discipline has in our times been plainly neglected. And though in modern states play-acting is esteemed but as a toy, except when it is too satirical and biting ; yet among the ancients it was used as a means of educating men's minds to virtue. Nay, it has been regarded by learned men and great philosophers as a kind of musician's bow by which men's minds may be played upon. And certainly it is most true, and one of the great secrets of nature, that the minds of men are more open to impressions and affections when many are gathered together than when they are alone.”<sup>1</sup>

So far as observed by me, Bacon nowhere makes any quotation from or allusion to any English play, or indeed any English poem whatever. He made no account of English poetry. All outside facts point to this conclusion. When

<sup>1</sup> 8 Bacon, 441.

one's mind is saturated with poetry, he is apt to show some signs of it in his speech or letters. Even Saint Paul on Mars Hill quoted from two Greek poets.<sup>1</sup> Nothing of the kind is found in Bacon. Amongst his Apophthegms is the following :—

“Mr. Savill was asked by my lord of Essex his opinion touching poets ; who answered my lord : He thought them the best writers, next to those that write prose.”<sup>2</sup>

This seems to express Bacon's own opinion. Drummond, in his Notes of Jonson's conversations in 1619, says :—

“At his [Jonson's] hither coming, Sir Francis Bacon said to him, He loved not to see Poesy go on other feet than poetical Dactylus and Spondæus.”<sup>3</sup>

That is to say, he loved not the Iambic metre, in which English plays were written. There is very good reason to think that this opinion was sincere. Spedding, in speaking of the publication of the Folio edition in 1623, goes so far as to doubt if Bacon ever heard of Shakespeare's plays, though for thirty years they had been filling the theatres.<sup>4</sup>

In considering this question, one naturally inquires what poetry acknowledged by Bacon has come down to us. The only poems known to have been written

Bacon's acknowledged verses.

<sup>1</sup> Aratus and Cleanthes, Renan's St. Paul, c. 7, n. 100.

<sup>2</sup> 13 Bacon, 343.

<sup>3</sup> Ed. 1842, p. 22.

<sup>4</sup> 2 Bacon, 223 n. See also Elze, p. 387.

by him, which are now extant, are the Translations from the Psalms. These were written in the spring of 1625. It is conceded on all hands that they show no signs of the genius or poetical skill of Shakespeare. They may be found in vol. 14 of Bacon's Works, but samples will be given here.

His translation of the 1st Psalm is as follows : —

“ Who never gave to wicked reed  
 A yielding and attentive ear ;  
 Who never sinner's paths did tread,  
 Nor sat him down in scorner's chair ;  
 But maketh it his whole delight  
 On law of God to meditate,  
 And therein spendeth day and night :  
 That man is in a happy state.

“ He shall be like the fruitful tree,  
 Planted along a running spring,  
 Which, in due season, constantly  
 A goodly yield of fruit doth bring :  
 Whose leaves continue always green,  
 And are no prey to winter's power :  
 So shall that man not once be seen  
 Surprised with an evil hour.

“ With wicked men it is not so,  
 Their lot is of another kind :  
 All as the chaff, which to and fro  
 Is tossed at mercy of the wind.  
 And when he shall in judgment plead,  
 A casting sentence bide he must :  
 So shall he not lift up his head  
 In the assembly of the just.

"For why? the Lord hath special eye  
 To be the godly's stay at call:  
 And hath given over, righteously,  
 The wicked man to take his fall."

This rendering may be compared with either  
 of the versions by Watts, beginning: —

"Blest is the man who shuns the place ;"

or

"Happy the man whose cautious feet ;"

or

"The man is ever blest."

Bacon's translation of the 90th Psalm begins  
 thus: —

"O Lord, thou art our home, to whom we fly,  
 And so hast always been from age to age:  
 Before the hills did intercept the eye,  
 Or that the frame was up of earthly stage.  
 One God thou wert, and art, and still shall be ;  
 The line of Time, it doth not measure thee."

This may be compared with the versions by  
 Watts, beginning: —

"Through every age, eternal God,"

or

"Our God, our help in ages past."

A portion of Bacon's rendering of the 104th  
 Psalm is as follows: —

"All life and spirit from thy breath proceed,  
 Thy word doth all things generate and feed.  
 If thou withdraw'st it, then they cease to be,  
 And straight return to dust and vanity ;

But when thy breath thou dost send forth again,  
 Then all things do renew and spring amain ;  
 So that the earth, but lately desolate,  
 Doth now return unto the former state."

This may be compared with the version in the Episcopal collection : —

"By thee alone the living live,  
 Hide but thy face, their comforts fly ;  
 They gather what thy seasons give,  
 Take thou away their breath, they die ;  
 But send again they spirit forth  
 And life renews the gladdened earth."

In judging of Bacon's acknowledged poetry, it is of course to be borne in mind that even a good poet may at times write bad verses, and therefore the fact that Bacon wrote such poor poetry in these translations may not of itself be absolutely decisive against his authorship of the plays ; but the peculiarity in his case is, that never by any accident did he stumble upon a single good line. If we are looking for an unknown author of remarkably fine poetry, we are not likely to spend much time upon writers whose only acknowledged poetry is remarkably bad.

It is also said that Bacon wrote one or more sonnets, though none of them survives. There is also a little poem beginning : —

"The world 's a bubble, and the life of man  
 Less than a span."

This is thought by some to have been written by Bacon, and Spedding thinks this theory probable, though not absolutely proved. According to him, the Translations from the Psalms are "the only verses certainly of Bacon's making that have come down to us, and probably with one or two slight exceptions the only verses he ever attempted."<sup>1</sup>

In judging of Bacon's poetical skill, only poems known to have been written by him can properly be taken into account.

It is not, however, necessary to doubt that at times he may have essayed to write verses. This fact, if established, signifies nothing. Very many persons of note in various branches of learning have tried to write verses, and either have failed entirely or come lamely off. But in 1625 Bacon's faculties were still unimpaired. No biographer says that they had begun to fail. The proposition of the Baconians involves the conclusion that the writer of *The Merchant of Venice*, *The Tempest*, and *A Midsummer Night's Dream* had degenerated into writing such clumsy verses as the Translations from the Psalms, and that he deemed the latter worthy of preservation and of publication with his name, but ignored the former.<sup>2</sup>

<sup>1</sup> 14 Bacon, 109.

<sup>2</sup> Substantially the foregoing view as to Bacon's unfamiliarity with English plays and poetry and his acknowledged verses was presented by me at greater length in 1866, in an article printed in the *Spring-*

In one instance only, so far as now known by me, was Bacon's name mentioned in his own time as a poet, though lists more or less complete of poets of the time were not uncommon. In John Stow's *Annals or General Chronicle of England*, continued to the end of 1614 by Edmond Howes, published in 1615, it is said: "Our modern and present excellent poets, which worthily flourish in their own works, and all of them in my own knowledge lived together in this Queen's reign. According to their priorities [chronologically?] as near as I could, I have orderly set down." Then follow twenty-seven names, including Bacon and Shakespeare.<sup>1</sup> No other contemporary, it is believed, ever spoke of Bacon as a poet.

In 1598 Meres mentioned over forty extant poets, but not Bacon. In the same year Richard Barnfield published *Remembrance of Some English Poets*, with a warm tribute to Shakespeare, but no allusion to Bacon. In 1600 John Bodenham published *Belvedere, or the Garden of the Muses*, in which were enumerated twenty-five "modern and extant poets that have lived together." Shakespeare is amongst them; Bacon is not. England's *Helicon* and England's *Parnassus*, both published in the same year, contain

field Republican, reviewing the first edition of Holmes's *The Authorship of Shakespeare*.

<sup>1</sup> Wilder's *Life of Shakespeare*, 171, 172.

extracts from Shakespeare, but do not mention Bacon. In 1603 Camden published the *Remains of a Greater Work concerning Britain*, and in the *Epistle Dedicatory* speaks of Sidney, Spenser, Daniel, Holland, Jonson, Campion, Drayton, Chapman, Marston, and Shakespeare, but says nothing of Bacon. Drayton, in his poetical *Epistle to Henry Reynolds*, mentions over twenty English poets, including Shakespeare, but not Bacon. In the *Return from Parnassus*, published in 1606, various contemporary poets are mentioned, including Constable, Daniel, Davis, Drayton, Jonson, Lodge, Marlowe, Marston, Spenser, Watson, and Shakespeare, but not Bacon. In 1619 Jonson gave to Drummond opinions or criticisms upon many contemporary or recent poets, but did not speak of Bacon as a poet, though he twice referred to him otherwise. He also said "that next himself only Fletcher and Chapman could make a mask;" thus ignoring Bacon's efforts in that direction. In 1817 Drake published his very elaborate and exhaustive work, *Shakespeare and his Times*, and after giving particulars of the more noted poets, added a Table with the names of no less than one hundred and ninety-three minor miscellaneous poets during the age of Shakespeare. Bacon is not included.

If the fact that Stow or Howes put Bacon's name into a list of poets shows that in some

instances, as early as 1615, Bacon had essayed to write verses, the fact that nobody else spoke of him as a poet shows that no poetry written by or commonly attributed to him was generally deemed worthy of notice.

## CHAPTER X

### AUTHORSHIP OF THE POEMS

A SEPARATE consideration may be given to the question of the authorship of the Poems, in respect to which there are some facts which are not directly applicable to the question of the authorship of the Plays.

In 1593 the poem of Venus and Adonis was published, with a motto of two lines from Ovid, and a Dedication signed Venus and Adonis, and Lucrece. William Shakespeare, addressed "To the Right Honorable Henry Wriothesley, Earl of Southampton and Baron of Titchfield," saying:—

"Right Honorable, I know not how I shall offend in dedicating my unpolished lines to your Lordship, nor how the world will censure me for choosing so strong a prop to support so weak a burden, only if your Honor seem but pleased, I account myself highly praised, and vow to take advantage of all idle hours, till I have honored you with some graver labor. But if the first heir of my invention prove deformed, I shall be sorry it had so noble a god-father," etc.

The Earl of Southampton was born in 1573, and died in 1624. He was educated at Cam-

bridge, and went to London in 1590. Drake says of him : —

“ If we except a constitutional warmth and irritability of temper, and their too common result, an occasional error of judgment, there did not exist, throughout the reigns of Elizabeth and James, a character more truly amiable, great, and good than was that of Lord Southampton.”<sup>1</sup>

The above Dedication is thought by Halliwell-Phillipps to have been without previous permission, and perhaps without any previous personal acquaintance. New editions of the poem were published in 1594, 1596, 1599, 1600, and two editions in 1602. The motto shows that the writer had some acquaintance with Ovid.

The Rape of Lucrece was published in 1594, with a Dedication signed William Shakespeare, and addressed like the former one. It says : —

“ The love I dedicate to your Lordship is without end ; whereof this pamphlet without beginning is but a superfluous moiety. The warrant I have of your honorable disposition, not the worth of my untutored lines, makes it assured of acceptance. What I have done is yours, what I have to do is yours, being part in all I have, devoted yours. Were my worth greater, my duty would show greater, meantime, as it is, it is bound to your Lordship ; to whom I wish long life, still lengthened with all happiness.”

This Dedication is thought to show that Shakespeare had then become warmly attached to Southampton, and to contain an expression of gratitude for favors conferred in the interval.<sup>2</sup>

<sup>1</sup> Page 358.

<sup>2</sup> 1 H.-P. 93.

New editions of *Lucrece* were published in 1598, 1600, 1607, and 1616.

Drake says that Southampton revisited London in 1599, and went daily to the theatre from admiration of the genius of Shakespeare.<sup>1</sup> In a letter dated October 11, 1599, he is spoken of as spending his time "merely in going to plays every day."<sup>2</sup> No letter of undisputed authority from Southampton referring to either of these poems or to Shakespeare is extant. The fact of the two dedications is indisputable, and Southampton must have allowed them to stand, since the new editions were so frequent, and he must have known from whom they came. It is believed by some, from a tradition to that effect, that he gave to Shakespeare a substantial sum of money in acknowledgment of them. There is no record of any correspondence or other communication between Bacon and Southampton prior to 1603. At that time Bacon, after appearing against Essex and Southampton on their trial for treason, wrote to the latter a brief and formal letter, showing on its face much misgiving as to how it would be received, and by inference negating any intimacy between them. Unless it can be supposed that Southampton was acting in collusion with Bacon and Shakespeare to palm off Shakespeare upon the world as the author of

<sup>1</sup> Page 355.

<sup>2</sup> Drake, 353; 1 H.-P. 160. In the latter work it is printed "merely."

poems written by Bacon, we have virtually the testimony of Southampton in favor of Shakespeare's authorship of these two poems at least. There is nothing in the known relations of Southampton with Bacon, or in his character, to make it probable that he would lend himself to such a scheme.

The contemporary opinion of two writers may be here cited. In 1598 Richard Barnfield, in his *Remembrance of Some English Poets*, says :

"And Shakespeare, thou, whose honey-flowing vein  
Pleasing the world, thy praises doth obtain,  
Whose Venus, and whose Lucrece, sweet and chaste,  
Thy name in Fame's immortal book have placed ;  
Live ever you, at least in fame live ever :  
Well may the body die, but fame dies never."

In the same year Francis Meres, a master of arts of both universities, published a volume called *Palladis Tamia, Wits' Treasury*. It contained "A Comparative Discourse of our English Poets with the Greek, Latin and Italian Poets." Numerous references are made to Shakespeare, sometimes in connection with other names, and sometimes alone. He referred to certain of the poems as follows : "The sweet witty soul of Ovid lives in mellifluous and honey-tongued Shakespeare ; witness his Venus and Adonis, his Lucrece, his sugared sonnets among his private friends."

Shakespeare was also called "honey-tongued"

by John Weever, in a poem published in 1599, and "mellifluous" by Heywood in 1635. Chettle in 1603 spoke of his "honied muse." The mention of him in Belvedere, in England's Helicon, and in England's Parnassus, all published in 1600, and also in Camden's Remains, published in 1603, has already been noted.<sup>1</sup>

The Sonnets were first printed in 1609, and A Lover's Complaint appeared as an appendix. No second edition was Sonnets. printed during Shakespeare's lifetime. It is doubted by some whether he assented to their publication. If they related to Shakespeare's personal experiences, this doubt would become stronger. The mention by Meres shows that as early as 1598 some of them were in circulation in manuscript amongst Shakespeare's private friends, and that Meres had seen them. This makes it rather probable that he had a personal acquaintance with Shakespeare, and that the Sonnets thus in circulation were really written by Shakespeare, unless Meres can in some way be discredited, or unless it can be supposed that Bacon furnished sonnets for Shakespeare to circulate privately in manuscript as his own. If the Sonnets were addressed to real persons, no explanation of their origin is to be derived from any known experiences of Bacon. At any rate, it would seem that Shakespeare's private friends,

<sup>1</sup> Ante, pp. 152, 153.

amongst whom they were circulated, accepted them as his, and that he permitted their circulation in private.

“The *Passionate Pilgrim*. By W. Shakespeare. At London. Printed for W. Jaggard,” appeared in 1599. At some time afterwards there appears to have been a second edition, of which no copy remains. In 1612 there was a third edition, printed by W. Jaggard, which included some poems by Thomas Heywood, and the whole were attributed to Shakespeare. This annoyed Heywood, who wrote to his publisher, Nicholas Okes,<sup>1</sup> a letter which is printed in his *Apology for Actors*,<sup>2</sup> saying :—

“Here likewise I must necessarily insert a manifest injury done me in that work by taking the two epistles of Paris to Helen and Helen to Paris and printing them in a less volume under the name of another, which may put the world in opinion I might steal them from him ; and he, to do himself right, hath since published them in his own name ; but as I must acknowledge my lines not worthy his patronage under whom he hath published them, so the author I know much offended with M. Jaggard that (altogether unknown to him) presumed to make so bold with his name.”

Heywood's prose, like Chettle's, is rather involved, but he clearly means that Shakespeare was much offended with Jaggard for printing under his name the poems of Heywood. That is to say, Heywood was referring to Shakespeare,

<sup>1</sup> Elze, 319.

<sup>2</sup> 1 H.-P. 218.

not to Bacon, when he said he knew the author was much offended. Heywood thus asserts his personal knowledge that Shakespeare was much offended, and his testimony on this point has much significance.

It is not certain that all of the other portions of the *Passionate Pilgrim* were written by Shakespeare.<sup>1</sup> Elze sums up the matter by saying, "Even after a most careful examination, it cannot be said how much of it is genuine, and this much alone seems certain, that the really genuine portion is very inconsiderable."<sup>2</sup> It does not appear that he sanctioned the publication of the first edition, and Heywood certifies to the contrary as to the third. Therefore no great weight is to be given to the fact of the publication of this poem in Shakespeare's name, independently of the circumstance mentioned by Heywood.

In 1601 Robert Chester published his poem *Love's Martyr*, to which were added short poems signed with the names of <sup>The Phoenix and Turtle.</sup> Shakespeare, Marston, Chapman, and Jonson. This volume, edited by Alexander B. Grosart, was republished in 1878. Chester, if Grosart's identification of him is correct, was a man of some consequence in his day, though now forgotten but for his connection with Shakespeare. He was born in 1566, married an earl's granddaughter, was sheriff of Herts in 1599, was

<sup>1</sup> Lee, 182.

<sup>2</sup> Page 319.

knighted in 1603, and died in 1640. In 1596 Henry Holland dedicated his *Christian Exercise of Fasting* to him. The title-page of *Love's Martyr* contained the following : —

“*Love's Martyr, or Rosalin's Complaint, allegorically shadowing the truth of Love, in the constant fate of the Phoenix and Turtle. A Poem enterlaced with much variety and rarity, now first translated out of the venerable Italian Torquato Cœliano, by Robert Chester. . . . To these are added some new compositions of several modern writers, whose names are subscribed to their several works, upon the first subject, viz., the Phoenix and Turtle.*”

The Dedication was to Sir John Salisbury, and began thus : —

“To the Honorable and (of me before all other) honored Knight, Sir John Salisburie, one of the Esquires of the body to the Queen's most excellent Majesty, Robert Chester wisheth increase of virtue and honor. *Posse et nolle, nobile. Honorable Sir,*” etc.

After the poem of *Love's Martyr* there was another title-page, as follows : —

“Hereafter follow divers poetical essays on the former subject, viz., the Turtle and Phoenix. Done by the best and chiefest of our modern writers, with their names subscribed to their particular works; never before extant. And (now first) consecrated by them all generally to the love and merit of the true-noble knight, Sir John Salisburie. *Dignum laude virum musa vetat mori. MDCL.*”

Among the poems which followed were the poem now called *The Phoenix and Turtle*, signed William Shakespeare, another signed John Marston, another signed George Chapman, and two

signed Ben Jonson. There appears to be no room for doubt that Shakespeare actually furnished this poem of *The Phoenix and Turtle* for publication in the volume with Chester's poem. So far as known, its authenticity has not been questioned. Grosart thinks Chester's poem meant Queen Elizabeth by the *Phoenix* and the Earl of Essex by the *Turtle*, and that Shakespeare also wrote in the same sense, and that, notwithstanding the appeals made to him, he forebore to write any lines on the death of Queen Elizabeth because of the execution of Essex. However that may be, Shakespeare's contribution of this poem affords a natural inference that he was acquainted with Chester and Salisbury, as well as with Marston, Chapman, and Jonson. And if this poem signed with Shakespeare's name was furnished by Bacon, it would seem to imply that Chester and Salisbury, if not Marston and Chapman, as well as Jonson, were in the secret of the imposture and aided in it. Sir John Salisbury was born in 1567, married a daughter of the Earl of Derby, and died in 1613. His home was in Denbigh, Wales. He was a son of John Salisbury and the celebrated Catherine Tudor, of Berain, of whom an interesting account is given in Pennant's *Tour in Wales*. In 1600-1 he was Member of Parliament for the county of Denbigh. He was surnamed the Strong, and his motto appears to

have been, "Posse et nolle, nobile," — To have power and not to use it, is noble. Chester placed this motto at the head of his Epistle Dedicatory; and Hugh Griffith also had a poem in the volume with the same heading. The sentiment of the motto was familiar to the writer of the Shakespearian plays. Isabella, in *Measure for Measure*, says : —

" O, it is excellent  
To have a giant's strength ; but it is tyrannous  
To use it like a giant." <sup>1</sup>

And the Countess, in *All's Well that Ends Well*, says : —

" Be able for thine enemy  
Rather in power than use." <sup>2</sup>

Holmes says, "It has scarcely ever been doubted, among critics, that the sonnets, smaller poems, and plays were the work of one and the same author." <sup>3</sup> Accepting this statement as correct and well founded, the circumstances of the production and publication of the poems have been given, to aid in forming an opinion whether Bacon furnished them as well as the plays to Shakespeare. If this theory is found to be incredible, and if Shakespeare's authorship of *Venus and Adonis*, *Lucrece*, the *Sonnets*, and *The Phoenix and Turtle* is beyond dispute, this aids in believing that he was also the author of the plays.

<sup>1</sup> II, ii, 107.

<sup>2</sup> I, i, 58.

<sup>3</sup> Page 187.

## CHAPTER XI

### INTERNAL EVIDENCE. — STYLE. — LOCAL KNOWLEDGE OF WARWICKSHIRE. — USE OF LOCAL AND TRADE TERMS

IN considering the question of Bacon's authorship, one is led to examine and see if there are any particular signs or indications in the plays and poems themselves which throw light upon it.

Much stress has been laid by Holmes upon certain parallelisms of thought and expression found in Bacon's writings and in the plays. And it is said that a German writer, Borrmann, has made a similar collection in *Das Shakespeare Geheimniss*, — *The Shakespeare Mystery*. So far as seen, these have not impressed me much, and they will be passed by without comment in these Notes.<sup>1</sup>

The style of composition of the plays seems curiously impossible for Bacon. Probably no instance can be found in literature where one writer has been able continuously to adopt styles so different from each

<sup>1</sup> Supposed parallelisms between Bacon and Jonson have been noted by Alfred Waites, in articles called *Did Ben Jonson write Bacon's Works?* in *Shakespeariana* for 1889, pp. 145, 241, 298. See also pp. 412, 415.

other. Two opinions on Bacon's style may be cited. Spedding says: —

"I doubt whether there are five lines together in Bacon which could be mistaken for Shakespeare, or five lines in Shakespeare which could be mistaken for Bacon, by one who was familiar with the several styles, and practised in such observation. . . . If there were any reason for supposing that the real author was somebody else, I think I am in a condition to say that, whoever it was, it was not Francis Bacon."<sup>1</sup>

Campbell says, —

"In general they [the letters of Bacon] are written in a stiff, formal, ungraceful style, and when the writer tries to be light and airy we have such a botch as might have been expected if Horace Walpole had been condemned to write the *Novum Organum*. . . . He employed himself in a metrical translation into English of some of the Psalms of David — showing by this effort, it must be confessed, more piety than poetry. His ear had not been formed, nor his fancy fed, by a perusal of the divine productions of Surrey, Wyatt, Spenser, and Shakespeare, or he could not have produced rhymes so rugged, and turns of expression so mean. Few poets deal in finer imagery than is to be found in the writings of Bacon; but if his prose is sometimes poetical, his poetry is always prosaic."<sup>2</sup>

Some critics from a study of the plays and poems infer that the character of the writer must have been far different from that of Bacon. Dowden, for example, in *Shakspeare, His Mind and Art*,<sup>3</sup> seeks from such an examination to gain "a real apprehension of Shakespeare's

<sup>1</sup> Letter to Holmes, cited in 2 *Authorship of Shakespeare*, 617.

<sup>2</sup> *Lives of Lord Chancellors*, 130 (Murray's ed. 1857).

<sup>3</sup> Pages 2, 3.

character ;” “not such an apprehension as mere observation of the externals of the man . . . would be likely to produce ;” but “to attain to some central principles of life in him which animate and control the rest, . . . to pass through the creation of the artist to the mind of the creator.” He compares Shakespeare with Bacon, and finds that they stand far apart, and that in moral character and in gifts of intellect and soul there is little resemblance between them. He says :—

“Bacon’s superb intellect was neither disturbed nor impelled by the promptings of his heart. Of perfect friendship or of perfect love he may, without reluctance, be pronounced incapable. Shakespeare yielded his whole being to boundless and measureless devotion.”<sup>1</sup>

Tennyson seems to have entertained a somewhat similar opinion. He said, as reported in the *Life of him by his son* :—

“The way in which Bacon speaks of love would be enough to prove that he was not Shakespeare. ‘I know not how, but martial men are given to love. I think it is but as they are given to wine, for perils commonly ask to be paid in pleasures.’ How could a man with such an idea of love write *Romeo and Juliet* ?”<sup>2</sup>

Brandes goes further, and his *Critical Study of Shakespeare* rests largely upon the assumption that even the temporary moods of Shakespeare can be traced in the plays, and he seeks thus to fix their chronological order.<sup>3</sup> Our own

<sup>1</sup> Page 18.

<sup>2</sup> Vol. 2, pp. 423, 424.

<sup>3</sup> Pages 401, 402, 451, 462, 463, 476, 533, 572, 689, *inter alia*.

eminent Shakespearian scholar, Furness, on the other hand, expresses an entire distrust of all such theories. In the Preface to *As You Like It*, he says : —

“I confess to absolute scepticism in reference to the belief that in these dramas Shakespeare’s self can be discovered (except on the broadest lines), or that either his outer or his inner life is to any discoverable degree reflected in his plays.”

Boas seems inclined to entertain a similar opinion, though he expresses it less positively.<sup>1</sup>

Amongst modern writers, probably Sir Walter Scott more than any other resembles Shakespeare in the character of his genius. Before the authorship of the *Waverley Novels* had been disclosed, in 1821, John L. Adolphus published a book containing (according to Lockhart)<sup>2</sup> much acute criticism founded upon internal evidence pointing to Scott as the author. He said : —

“It may, I think, be generally affirmed, on a review of all the six-and-thirty volumes in which this author has related the adventures of some twenty or more heroes or heroines (without counting second-rate personages), that there is not an unhandsome action or degrading sentiment recorded of any person who is recommended to the full esteem of the reader.”<sup>3</sup>

However much the essential principles of his character may be reflected in his writings, Scott was a marked example of superiority to tem-

<sup>1</sup> Pages 90, 91.

<sup>2</sup> 6 Lockhart’s *Life of Scott*, 129 (Boston ed. 1862).

<sup>3</sup> *Id.*, 142.

porary moods and circumstances. Lockhart says of Rob Roy : —

“The novel had indeed been a tough job — for lightly and airily as it reads, the author had struggled almost throughout with the pains of cramp, or the lassitude of opium.”

According to the same authority Scott was suffering acutely, and incapable of the manual exercise of writing, when he produced the far greater portion of *The Bride of Lammermoor*, the whole of *A Legend of Montrose*, and almost the whole of *Ivanhoe*. *Woodstock* was written in a time of the greatest depression, not only from impaired health, but from the loss of property and the death of his wife. An attempt to infer Scott's changing experiences, feelings, and emotions from a perusal of his novels would fail. That which was inherent, so as to be a part of his nature, might to some extent show itself; but that which sprung from temporary circumstances could not be clearly traced.

In respect to Shakespeare it cannot be considered as established that his temporary moods, or his experiences, are reflected in the plays. But this phase of the subject will not be further dwelt on here. There are, however, in the plays and poems various other features, allusions, and details which will now be noticed, and which have a material bearing upon the question of authorship.

In the first place, there are various indications that the writer had a local acquaintance with Stratford and Warwickshire. I have not found anything to show that Bacon was ever in that part of England.

It is generally thought that in *The Merry Wives of Windsor* reference is made to Sir Thomas Lucy, of Charlecote Park, and that he is personated or ridiculed in the character of Justice Shallow. The occasion for so doing is open to doubt. By some it is supposed that Shakespeare had been punished in his youth for stealing deer from the park; but this is doubted by others. But, whatever the occasion, the allusion to Sir Thomas is thought to be clear.<sup>1</sup> According to Drake,<sup>2</sup> the grounds on which this tradition rests are as follows: Thomas Jones, born in 1613, lived at Tarbick, eighteen miles from Stratford, and he could remember having heard from several very aged people at Stratford the whole history of the poet's transgression, and could repeat the first stanza of the ballad, and it was taken down from his recitation. This story, if true, shows that Shakespeare was writing pungent and punning verses before he left Stratford, and it also accounts for the passages in the play by showing a foundation for them

<sup>1</sup> Knight, 486-488; Elze, 107-112; Drake, 199, 200; Lee, 29, 173.

<sup>2</sup> Drake, 197-200.

in Shakespeare's own experience. The authenticity of these lines is distrusted by Lee.<sup>1</sup>

In the *Taming of the Shrew*, it is believed by some that the scene of the Induction was intended to be in the neighborhood of Stratford.<sup>2</sup> Stephen Sly and Christopher Sly were the names of persons living there.<sup>3</sup> Sly speaks of Burton Heath and Wincot, which were two villages near Stratford. Halliwell-Phillipps thinks Marian Hacket, old John Naps, Peter Turf, and Henry Pimpernell were also real characters.<sup>4</sup> Elze<sup>5</sup> imagines that in the Induction Shakespeare was relating incidents from his own youthful life at Stratford, with secret pleasure. There was an earlier play, *The Taming of a Shrew*, upon a similar subject, from which the name of Christopher Sly and portions of the plot and language were taken. Whether Shakespeare had anything to do with writing it is not yet settled.

In 2 King Henry IV, Silence nicknames Pistol, "Goodman Puff of Barson." Barson, also called Barston, was a village between Coventry and Solyhall.<sup>6</sup> It is said by Wise to be the popular corruption for Barton.<sup>7</sup>

In the same play<sup>8</sup> Davy, servant to Justice Shallow, says: "I beseech you, sir, to counte-

<sup>1</sup> Pages 28, 29.

<sup>2</sup> Lee, 164.

<sup>3</sup> Lee, 167; 2 H.-P. 296, 307, 308.

<sup>4</sup> Vol. 2, p. 307.

<sup>5</sup> Pages 56, 97.

<sup>6</sup> Drake, 25.

<sup>7</sup> Page 79.

<sup>8</sup> V, i, 36.

nance William Visor of Woncot [or Wincot, as it is sometimes printed] against Clement Perkes o' the hill ;" thus asking favor for Visor, whom Shallow calls an arrant knave. Drake<sup>1</sup> thinks Woncot or Wincot may have been the village or a public-house on Burton Heath. Wise explains it thus : —

" Now the Cherry Orchard Farm . . . is still called the Hill Farm ; and whoever lives there is to this day spoken of as Mr. A. or Mr. B. of the Hill, and is so named from time immemorial in the Weston parish register. Whilst Wincot is still the name of a farm some three miles to the left, where probably there was once a village, the same Wincot where Christopher Sly runs fourteen pence in debt with Marian Hacket for sheer ale, or rather Warwickshire ale. . . . Depend upon it, all these people really existed, — good Justice Shallow, and Davy his servant, and Marian Hacket and her daughter Cicely at Wincot ale-house, and Clement Perkes of the Hill." <sup>2</sup>

Madden,<sup>3</sup> however, refers this scene to Gloucestershire, at or near Dursley, and says that a Clement Perkis or Perkes was born there in 1568 ; that a spur of Cotswold received the distinctive name of the Hill ; that Woncot or Woodmancote is not far distant ; that Arthur Vizard was bailiff of Dursley in 1612 ; and that there is a tradition that Shakespeare passed some portion of his early life with relatives in Dursley. He thinks that at the outset Shakespeare had no intention of identifying Shallow

<sup>1</sup> Page 24.

<sup>2</sup> Page 76.

<sup>3</sup> Diary of Master William Silence, 86-88.

with Sir Thomas Lucy, but came to it afterwards. There seems reason to think that a local allusion was intended, though the precise place may be in doubt.

The Forest of Arden, in *As You Like It*, suggests Warwickshire. It is true that the scene of Lodge's novel, upon which the play was in part founded, and the Forest of Arden there mentioned, were in France. Shakespeare adopted the name, and to some extent the locality. Thus, Oliver speaks of his brother Orlando as "the stubbornest young fellow of France."<sup>1</sup> But there was a Forest of Arden in Warwickshire, and the name of Shakespeare's mother was Mary Arden. The general tone and flavor of the details of the play are English rather than French. Furness says England is its home.<sup>2</sup> Touchstone refers to English money when he says, "I should bear no cross if I did bear you, for I think you have no money in your purse;" referring to the English penny, which was called a cross.<sup>3</sup> White<sup>4</sup> says the Arden family took its name from the wooded country. De Boys, Jaques, and Audrey were Warwickshire names.<sup>5</sup>

Ward<sup>6</sup> says that the notion of the tradesmen's play in *Midsummer Night's Dream* must have been primarily suggested to Shakespeare by the

<sup>1</sup> I, i, 127.

<sup>2</sup> Pref. vii.

<sup>3</sup> Rolfe.

<sup>4</sup> Mem. of Shakespeare, 7, 8.

<sup>5</sup> Furness, *As You Like It*, 2, 4, notes.

<sup>6</sup> Vol. 2, p. 86.

performances of the guilds with which his native county was specially familiar.

Wise mentions many flowers and also birds of the region which are referred to in the plays. Some of the flowers bear unusual names, by which they are still known in Warwickshire, as "long-purple," "love-in-idleness," "crow-flowers."<sup>1</sup> Two varieties of primroses are found near Stratford, hence the description "pale" primroses.<sup>2</sup> He also mentions various kinds of apples spoken of in the plays, which are found in Stratford and vicinity, if not peculiar to that locality; e. g., "leathern-coats," "bitter-sweetings," "apple-johns," "pippins," "carraways," "pomewaters." "Warden-pies" are spoken of in *The Winter's Tale*, and the warden pear still grows in Warwickshire.<sup>3</sup> Wise also says that people about the Weir Brake, near Stratford, still believe, as in Shakespeare's time, that the fern-seed, gathered with certain rites on Midsummer's day, can make them invisible.<sup>4</sup>

The Queen in *Hamlet* says, —

"There is a willow grows aslant a brook

That shows his hoar leaves in the glassy stream."<sup>5</sup>

Beisley, cited by Furness, notes that this willow, the *Salix alba*, grows on the banks of the Avon, and from the looseness of the soil the trees partly lose their hold, and bend aslant over the stream.<sup>6</sup>

<sup>1</sup> Pages 60-62.

<sup>2</sup> Page 66.

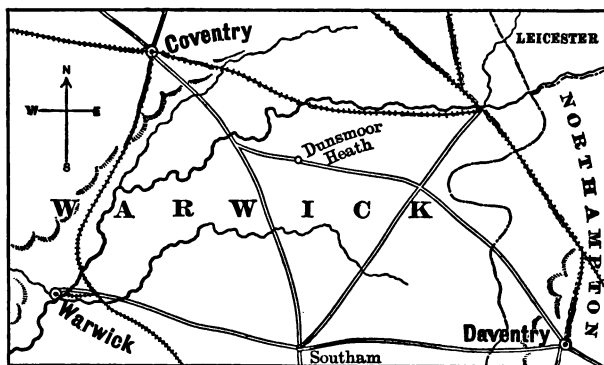
<sup>3</sup> Pages 96-99.

<sup>4</sup> Page 80.

<sup>5</sup> IV, vii, 167.

<sup>6</sup> Furness, 1 *Hamlet*, 370.

Knight<sup>1</sup> mentions various instances of local knowledge of Gloucestershire, Coventry, Sutton-Coldfield, Shrewsbury, Hinckley Fair, Wincot, etc., and he adds that "the poet has given Warwick an early importance which the chronicles of the age do not assign to him."<sup>2</sup> He gives a striking illustration of minute knowledge of



the region near Warwick, taken from 3 King Henry VI, V, i, 1, in the scene on the walls of Coventry, as follows:<sup>3</sup> —

"*Warwick.* Where is the post that came from valiant Oxford?

How far hence is thy lord, mine honest fellow?

*1st Mess.* By this at Dunsmore, marching hitherward.

*Warwick.* How far off is our brother Montague?

Where is the post that came from Montague?

*2d Mess.* By this at Daintry, with a puissant troop.

(Enter SIR JOHN SOMERVILE.)

<sup>1</sup> Pages 164-166.

<sup>2</sup> Page 169.

<sup>3</sup> Page 170.

*Warwick.* Say, Somervile, what says my loving son ?  
And, by thy guess, how nigh is Clarence now ?

*Somerv.* At Southam I did leave him with his forces,  
And do expect him here some two hours hence.

(Drum heard.)

*Warwick.* Then Clarence is at hand : I hear his drum.

*Somerv.* It is not his, my lord ; here Southam lies ;  
The drum your honor hears marcheth from Warwick."

Dunsmoor Heath lies southeast of Coventry ;  
Daventry is also southeast, and further away ;  
Southam a little east of south ; and Warwick  
about south.

In 1 King Henry IV the "sandy-bottomed  
Severn" is mentioned, and also the "smug and  
silver Trent." Drayton — a Warwickshire man  
— also speaks of the silver Trent in the Shep-  
herd's Sirena. This river is not in Warwickshire,  
but is near by.

In *The Merry Wives of Windsor* it is said, "He  
was outrun on Cotsall." According to Wise,  
Cotsall is the pronunciation still in vogue by the  
peasantry for the Cotswold Hills.<sup>1</sup> Collier says  
they were celebrated for coursing.

Killingworth (used in *The Merry Wives*) was  
the local pronunciation for Kenilworth,<sup>2</sup> and this  
term was also used by Drayton.<sup>3</sup>

Elze says that the scenery in *Midsummer  
Night's Dream*, in *The Winter's Tale*, and in *As  
You Like It* corresponds exactly with the scenery

<sup>1</sup> Page 78.

<sup>2</sup> Rolfe.

<sup>3</sup> *Baron's Wars*, . . V, 29.

in Warwickshire.<sup>1</sup> He also finds reason to think that the scene in *The Merry Wives of Windsor*, where Sir Hugh Evans examines the boy Page, is taken from Shakespeare's own experience in Stratford. Shakespeare had a Welsh teacher, Thomas Jenkins, who is supposed to be represented by Sir Hugh; and William Page is supposed to be William Shakespeare.<sup>2</sup> Elze develops this theory at some length. He also notes that Shakespeare often used names from his native district,<sup>3</sup> e. g., Page, Bardolph, Fluellen, Ford, Brome, Herne, Evans, Peto. This suggestion is carried further in the London Athenæum for February 9, 1889 (referred to by William Winter in *Gray Days and Gold*), in a communication by John Taylor, saying that the following Shakespearean names are found in the registers of Stratford, and of the surrounding parishes, viz., Fluellen, Bardell (Bardolph), Court, Roughbe (Rugby), Peto, Page, Pratt, Clemens Perkes, Vizor, Jourdain or Jurden, Seacoal, Hacket, Poyns, Curtis, Slye, Dumbleton (Dombledon), Bates, Dull, Seyton, Squele, and Luce. In addition the names of Bottom, Fabian, Boulton (Bolt), and Finton (Fenton) have been found in the neighborhood. To these should be added Jaques (or Jakes), De Boys, and Audrey.<sup>4</sup> The use of so great a number of Warwickshire names tends

<sup>1</sup> Page 47.

<sup>3</sup> Page 56.

<sup>2</sup> Pages 37, 38.

<sup>4</sup> *Ante*, p. 173.

to show a special acquaintance with that region, such as Bacon would not be likely to have.

Bosworth Field is about thirty miles from Stratford. There was a tradition in that neighborhood that King Richard dreamed of ghosts; and it is added, by Knight,<sup>1</sup> that Shakespeare's ancestor was probably an adherent of the Earl of Richmond, and for his faithful services was rewarded by lands in Warwickshire. The field of Bosworth would therefore have for Shakespeare a family as well as a local interest.

A passage in *Romeo and Juliet* is thought to show a local origin:—

“As in a vault, an ancient receptacle,  
Where for this many hundred years the bones  
Of all my buried ancestors are packed.”<sup>2</sup>

This idea, it is said,<sup>3</sup> was probably suggested by the charnel at Stratford, which is very large, and probably contains more bones than any other similar repository in England. A cut of this may be found in Rolfe's edition of Shakespeare.<sup>4</sup>

It has also been noted that an instance like Macbeth's negotiation with the assassins<sup>5</sup> occurred in 1589 near Stratford,<sup>6</sup> which must have

<sup>1</sup> Pages 173, 174.

<sup>2</sup> IV, iii, 39.

<sup>3</sup> See Rolfe's note; also citation in Furness, *Romeo and Juliet*, 230 n.

<sup>4</sup> Vol. 1, p. 8; also in notes to *Romeo and Juliet*.

<sup>5</sup> III, i.

<sup>6</sup> Hunter, quoted in Furness, *Macbeth*, 149 n.

been well known to Shakespeare, and may have furnished the idea.

As a slight circumstance, it may be mentioned here that Richard Field, a Stratford man, whose father, according to Halliwell-Phillipps,<sup>1</sup> was known to Shakespeare's father, printed *Venus and Adonis* in 1593, and *Lucrece* in 1594.

In the next place, attention may be given to the use of language in the plays which savors of the locality, or is taken from occupations with which Shakespeare was familiar. There are also found certain local peculiarities of pronunciation.

Use of local  
and trade  
terms.

The phrase "aroint thee, witch," used in *Macbeth* and in *King Lear*, has not been found in the published works of any other author. It was, however, in Shakespeare's time a familiar phrase with the lower classes of Stratford, as is shown by the town records,<sup>2</sup> where it is narrated that a woman used the phrase "arent the, witch," as a term of abuse. Furness says two instances of "arunte" have been found in a manuscript of Trinity College, Dublin.<sup>3</sup>

In *The Winter's Tale*, the clown says: —

"Let me see: every 'leven wether tods; every tod yields pound and odd shilling; fifteen hundred shorn, what comes the wool to?"<sup>4</sup>

<sup>1</sup> 1 H.-P. 89.

<sup>3</sup> Furness, *K. Lear*, 196 n.

<sup>2</sup> 1 H.-P. 130.

<sup>4</sup> IV, iii, 31.

A tod is twenty-eight pounds. The meaning is:<sup>1</sup> Every eleven wether will produce twenty-eight pounds of wool; every twenty-eight pounds of wool will yield a pound and some odd shillings; what then will the wool of fifteen hundred yield? Shakespeare's father dealt in wool.<sup>2</sup>

In *As You Like It*, Rosalind says:—

"And this way will I take upon me to wash your liver as clean as a sound sheep's heart, that there shall not be one spot of love in it."<sup>3</sup>

Again, in the same play, Corin says:—

"We are still handling our ewes." . . . "And they (our hands) are often tarred over with the surgery of our sheep."<sup>4</sup>

In *2 King Henry IV*, Silence says:—

"A score of good ewes may be worth ten pounds."<sup>5</sup>

In *The Two Gentlemen of Verona*, Speed says:—

"Twenty to one, then, he is shipped already,  
And I have played the sheep in losing him."<sup>6</sup>

This is a pun on the word "sheep," showing that it was pronounced "ship." A similar play upon the word is found in *The Comedy of Errors* and in *Love's Labor's Lost*. In *Warwickshire* and in some other counties "sheep" was pro-

<sup>1</sup> Drake, 17; Elze, 22.

<sup>2</sup> The word "tod" is also used by Beaumont and Fletcher, in *The Pilgrim*, thus: "A hundred crowns for a good tod of hay." III, i.

<sup>3</sup> III, ii, 386.

<sup>4</sup> III, ii, 47, 55.

<sup>5</sup> III, ii, 49.

<sup>6</sup> I, i, 72.

nounced "ship;"<sup>1</sup> and in Stratford, Sheep Street, it is said by Wise,<sup>2</sup> is invariably pronounced Ship Street by the lower orders; as "creek" is pronounced "crik" in some parts of the United States. He also tells us that "juice" rhyming with "voice," and "ear" with "hair," as used in Venus and Adonis, are both Midland pronunciations.<sup>3</sup>

"Blood-boltered," in Macbeth,<sup>4</sup> is a Warwickshire phrase,<sup>5</sup> applied to animals whose hair or wool becomes matted from perspiration, and whose blood also issues out and becomes coagulated.

"Incensed the lords," in King Henry VIII,<sup>6</sup> i. e., instructed or informed the lords, is a provincialism in use in Staffordshire, and probably in Warwickshire.<sup>7</sup>

Wise also gives a long list of provincialisms, common in Warwickshire, and some of them in use elsewhere, which are found in the plays, examples of which are as follows:<sup>8</sup> "A mankind witch," for a violent woman; "we cannot miss him," for we must not miss him; a "deck" of cards, for a hand of cards, instead of a pack; "forecast," as verb and noun; "pugging-tooth," for pegging or peg-tooth; the use of "old" as

<sup>1</sup> 1 Shakespeare (Boston ed. 1846), p. 85 n.

<sup>2</sup> Page 33.

<sup>3</sup> Pages 149, 150.

<sup>4</sup> IV, i, 123.

<sup>5</sup> Malone, cited by Furness, Macbeth, 214.

<sup>6</sup> V, i, 43.

<sup>7</sup> Rolfe, quoting Nares.

<sup>8</sup> Pages 104-114, 150-157.

signifying an unusual disturbance or ado, as, e. g., "old turning the key," "old swearing," "old abusing of God's patience," "Yonder's old coil at home;" "prick-eared," for a pert and upstart person, a use peculiar to the neighborhood of Stratford; "man and boy," to denote length of time; "straight," for at once, as, e. g., "make her grave straight;" "quoth," as applied to inanimate things, as, "Shake, quoth the dove-house;" the use of "me" in phrases like these, "he rests me," "he eats me," "it ascends me," "puts me, her white hand to his cloven chin;" "child," for girl; "gull," for an unfledged nestling; "contain yourself;" "master," as a prefix to a person's name, as Master Fenton and Master Brook.

The following instances of provincialisms have been noted by others: —

"Dared once to touch a dust of England's ground."<sup>1</sup>

"A dust" was a Midland Counties' expression within the last few years.<sup>2</sup>

"The element," for the sky. Vaughan cites a similar use by a peasant in South Pembrokeshire.<sup>3</sup>

"Scaring the ladies like a crow-keeper."<sup>4</sup>

According to Nares, "crow-keeper" is used for

<sup>1</sup> K. Rich. II, II, iii, 91.

<sup>2</sup> *Ib.*, 590.

<sup>3</sup> 1 Vaughan, 179.

<sup>4</sup> Romeo and Juliet, I, iv, 6.

scarecrow in all the Midland Counties,<sup>1</sup> and Drayton, who was from Warwickshire, so used it.

“They say the owl was a baker’s daughter.”<sup>2</sup>

This was a common story among the vulgar in Gloucestershire, which adjoins Warwickshire.<sup>3</sup>

“Collied Night.”<sup>4</sup> “Collied” is a word still in use in the Midland Counties.<sup>5</sup> It is also found in Othello, and in Jonson’s Poetaster.

“Thisne, thisne,”<sup>6</sup> meaning in this manner, is also provincial.<sup>7</sup>

“His eyes were green as leeks.”<sup>8</sup>

Furness gives a modern instance of the use of this expression in Wales.<sup>9</sup>

“Dobbin, my fill-horse.”<sup>10</sup>

The use of “fill” for thill or shaft is said to be not known in England except as a provincialism in the Midland Counties.<sup>11</sup>

<sup>1</sup> Cited in Furness, *Romeo and Juliet*, 53, 54.

<sup>2</sup> *Hamlet*, IV, v, 40.

<sup>3</sup> Furness, 1 *Hamlet*, 332 n., citing Douce.

<sup>4</sup> *Mids. N. D.*, I, i, 145.

<sup>5</sup> Steevens, cited in Furness, *Mids. N. D.*, 20 n.

<sup>6</sup> *Mids. N. D.*, I, ii, 45.

<sup>7</sup> Furness, *Mids. N. D.*, 38, 39, n.

<sup>8</sup> *Mids. N. D.*, V, i, 326.

<sup>9</sup> Furness, *Mids. N. D.*, 233 n.

<sup>10</sup> *Mer. Ven.*, II, ii, 86.

<sup>11</sup> Rolfe.

"And this cushion my crown." <sup>1</sup>

Country people in Warwickshire used a cushion for a crown in their harvest-home diversions. <sup>2</sup>

"If I do, fillip me with a three-man beetle." <sup>3</sup>

"Fillip" is taken from filliping a toad. It was a common sport of Warwickshire boys to put a toad on one end of a short board, placed across a small log, and then to strike the other end with a bat, thus throwing the toad high in the air. This is called filliping the toad. A three-man beetle is a heavy rammer with three handles, used in driving piles. This might be used to fillip a heavy weight, like Falstaff. <sup>4</sup>

"He'll be meet with you," <sup>5</sup> i. e., even with you, or a match for you, was a common expression in the Midland Counties. <sup>6</sup>

After making due allowance for the fact that some of the flowers, fruits, names of characters, local and trade terms, and provincialisms, which are referred to, may have been known or used in other provincial counties than Warwickshire, it nevertheless seems pretty clear that Bacon was less likely than Shakespeare to be acquainted with most of them.

<sup>1</sup> 1 Hen. IV, II, iv, 368.

<sup>2</sup> 2 Hen. IV, I, ii, 215.

<sup>3</sup> Much Ado, I, i, 39.

<sup>4</sup> Dr. Letherland, quoted by Rolfe.

<sup>5</sup> Steevens, quoted by Rolfe.

<sup>6</sup> Steevens, quoted by Rolfe.

## CHAPTER XII

ACQUAINTANCE WITH RURAL LIFE AND CUSTOMS OF  
LOWER CLASSES ; WITH ENGLISH SONGS, BALLADS,  
AND PLAYS. — ANACHRONISMS AND OTHER ERRORS.  
— OBSCURITIES IN THE TEXT

ANOTHER distinguishing feature which has been observed in the plays is the familiar acquaintance of the writer with rural life, and especially with the people of the lower ranks, and their conversation, customs, sports, and festivals. Bacon would be less likely to have this knowledge than Shakespeare, at least respecting those incidents which belonged peculiarly to the common people or more humble classes.

Drake, in Shakespeare and his Times, gives an elaborate and detailed account of country life in Shakespeare's time,<sup>1</sup> with its manners and customs, its holidays and festivals, its diversions, etc., with instances of references to them in the plays. Only a few of these will be cited here, as illustrative examples.

The season of sheep-shearing was distinguished by a special feast. In *The Winter's Tale* this

<sup>1</sup> Part 1, cc. 5-8.

feast is several times referred to. The clown, who was calculating how much the wool would bring, is preparing for a feast of this kind, and says : —

“ Let me see ; what am I to buy for our sheep-shearing feast ? Three pound of sugar ; five pound of currants ; rice — what will this sister of mine do with rice ? But my father hath made her mistress of the feast, and she lays it on. She hath made me four and twenty nosegays for the shearers, three-man song men all, and very good ones ; but they are most of them means and bases ; but one puritan amongst them, and he sings psalms to hornpipes. I must have saffron to color the warden pies ; mace ; dates, none, that ’s out of my note ; nutmegs, seven ; a race or two of ginger, but that I may beg ; four pound of prunes, and as many of raisins o’ the sun.”<sup>1</sup>

Various other rural festivals are described by Drake, with the modes of celebrating them ; also the wakes, fairs, weddings, christenings, burials, the morris-dances, the strolling players, the games, and the juvenile sports, all of which, he says, are referred to in the plays in a manner which leaves no doubt that the writer was familiar with them. Knight<sup>2</sup> also says that Shakespeare mentions country sports always as familiar things, though his mature writings touch lightly upon them.

In connection with these subjects, mention may be made of the custom of hawking and peddling. Autolycus, in *The Winter’s Tale*, is

<sup>1</sup> IV, iii, 35.

<sup>2</sup> Page 196.

the chief example of this class of people. Drake says of him :<sup>1</sup> —

“The witty rogue Autolycus being drawn with those strong but natural strokes of broad humor which Shakespeare delighted to display in his characterization of the lower orders of society.”

The servant's description of Autolycus and his wares is graphic and minute : —

“O master, if you did but hear the peddler at the door, you would never dance again after a tabor and pipe ; no, the bagpipe could not move you : he sings several tunes faster than you 'll tell money ; he utters them as he had eaten ballads and all men's ears grew to his tunes. . . . He hath songs for man or woman, of all sizes ; no milliner can so fit his customers with gloves : he has the prettiest love-songs for maids ; so without bawdry, which is strange ; with such delicate burthens of dildos and fadings, ‘jump her and thump her ;’ and where some stretch-mouthed rascal would, as it were, mean mischief and break a foul gap into the matter, he makes the maid to answer, ‘Whoop, do me no harm, good man ;’ puts him off, slights him, with ‘Whoop, do me no harm, good man.’ . . . He hath ribbons of all the colors i' the rainbow ; points more than all the lawyers in Bohemia can learnedly handle, though they come to him by the gross : inkles, caddisses, cambrics, lawns : why, he sings 'em over as they were gods or goddesses ; you would think a smock were a she-angel, he so chants to the sleeve-hand and the work about the square on 't.”<sup>2</sup>

Then Autolycus enters, singing : —

“Lawn as white as driven snow ;  
Cypress black as e'er was crow ;  
Gloves as sweet as damask roses ;

<sup>1</sup> Page 577.

<sup>2</sup> IV, iv, 181 et seq.

Masks for faces and for noses ;  
 Bugle bracelet, necklace amber,  
 Perfume for a lady's chamber ;  
 Golden quoifs and stomachers,  
 For my lads to give their dears ;  
 Pins and poking-sticks of steel,  
 What maids lack from head to heel :  
 Come buy of me, come ; come buy, come buy ;  
 Buy, lads, or else your lasses cry ;  
 Come buy."

Afterwards, Autolycus came in and told of his success in selling his wares : —

"Ha, ha ! what a fool Honesty is ! and Trust, his sworn brother, a very simple gentleman ! I have sold all my trumpery ; not a counterfeit stone, not a ribbon, glass, pomander, brooch, table-book, ballad, knife, tape, glove, shoe-tie, bracelet, horn-ring, to keep my pack from fasting : they throng who should buy first, as if my trinkets had been hallowed and brought a benediction to the buyer," etc., etc.<sup>1</sup>

The plays abound in low-lived characters, and their colloquial and slang expressions, such as were in common use in the lower ranks, drop out of their mouths like their native language. The writer was also familiar with country inns and ale-houses, and with the food and beverages of the peasantry. Instances to show this are cited by Drake.<sup>2</sup>

There are many allusions to country sports. Some illustrations may be given.

<sup>1</sup> IV, iv, 587.

<sup>2</sup> Part 1, cc. 5, 7.

In two instances language is taken from bear-baiting.<sup>1</sup>

"But, bear-like, I must fight the course."<sup>2</sup>

"I am tied to the stake, and I must stand the course."<sup>3</sup>

"Bat-fowling" is spoken of in *The Tempest*.<sup>4</sup>

"With assays of bias"<sup>5</sup> is a metaphor from the game of bowls, meaning a ball sent on a curve; that is, in the text, indirect attempts.<sup>6</sup>

"There's the rub" is also a term of bowls.<sup>7</sup>

The sentence, "If the young dace be a bait for the old pike,"<sup>8</sup> may have come from Shakespeare's own experience, as there was trolling for pike with dace for bait in the Avon.<sup>9</sup>

Two phrases from hunting are used in *Hamlet*,<sup>10</sup> and one in *Othello*.

"Why do you go about to recover the wind of me, as if you would drive me into a toil?"<sup>11</sup>

"How cheerfully on the false trail they cry!

O, this is counter, you false Danish dogs!"<sup>12</sup>

"Counter" means when a hound hunts backwards.<sup>13</sup>

"I do follow here in the chase, not like a hound that hunts, but one that fills up the cry."<sup>14</sup>

<sup>1</sup> Steevens, cited in Furness, *Macbeth*, 239 n.

<sup>2</sup> *Macbeth*, V, vii, 2.

<sup>3</sup> *K. Lear*, III, vii, 54.

<sup>4</sup> II, i, 176.

<sup>5</sup> *Hamlet*, II, i, 65.

<sup>6</sup> Clarendon, cited in Furness, 1 *Hamlet*, 123 n.

<sup>7</sup> Clarendon, cited in *Ib.*, 210 n.

<sup>8</sup> 2 *K. Hen.* IV, III, ii, 321.

<sup>9</sup> 1 Vaughan, 515.

<sup>10</sup> Singer, cited in Furness, 1 *Hamlet*, 269 n.

<sup>11</sup> *Hamlet*, III, ii, 337.

<sup>12</sup> *Hamlet*, IV, v, 106.

<sup>13</sup> Clarendon, cited in Furness, 1 *Hamlet*, 339 n.

<sup>14</sup> *Othello*, II, iii, 353.

The snaring of woodcock is also alluded to.

"Why, as a woodcock to mine own springe, Osric."<sup>1</sup>

The woodcock is trained to decoy other birds, and sometimes while strutting incautiously too near the springe, it becomes itself entangled.<sup>2</sup>

Different games are mentioned.

"The nine men's morris is filled up with mud."<sup>3</sup>

This was a game played in Warwickshire. Turf was dug up for it.<sup>4</sup> The game is also referred to in All's Well, and in King Henry V.

"And the quaint mazes in the wanton green."<sup>5</sup>

This refers to another game.<sup>6</sup>

The opinion prevails very generally amongst critical writers that Shakespeare began his career as a dramatist by retouching or remodelling old plays, some of which were in print and others in manuscript, and which were probably in the possession of the theatre. This view is accepted by Drake,<sup>7</sup> Knight,<sup>8</sup> Gervinus,<sup>9</sup> Elze,<sup>10</sup> Fleay,<sup>11</sup> Boas,<sup>12</sup> Brandes,<sup>13</sup> Lee,<sup>14</sup> Ward,<sup>15</sup> Whipple,<sup>16</sup> and

Acquaintance with English songs, ballads, and plays.

<sup>1</sup> Hamlet, V, ii, 298.

<sup>2</sup> Furness, 1 Hamlet, 449 n.

<sup>3</sup> Mids. N. D., II, i, 98.

<sup>4</sup> James, cited in Furness, Mids. N. D., 63 n.

<sup>5</sup> Mids. N. D., II, i, 99.

<sup>6</sup> Steevens, cited in Furness, Mids. N. D., 64 n.

<sup>7</sup> Page 468.

<sup>8</sup> Page 357.

<sup>9</sup> Page 101.

<sup>10</sup> Page 299.

<sup>11</sup> Pages 16-19, 23, 25, Life and Work of Shakespeare.

<sup>12</sup> Page 134.

<sup>13</sup> Pages 18, 19.

<sup>14</sup> Page 47.

<sup>15</sup> Vol. 2, p. 22.

<sup>16</sup> Literature of the Age of Eliz., 32.

Emerson ;<sup>1</sup> and no doubt by others. This view, if sound, accounts for the remarkable familiarity with them which is shown in the Shakespearian plays, as noted hereafter.

The acquaintance of the writer of the plays with English songs and ballads has often been adverted to. Percy says : —

“Dispersed through Shakespeare’s plays are innumerable little fragments of ancient ballads, the entire copies of which could not be recovered.”<sup>2</sup>

Many of these, no doubt, existed only in manuscript. Drake says : —

“Throughout his dramas, indeed, a peculiar partiality for these popular little pieces is very manifest ; he delights to quote them, wherever he can find a place for their introduction.”<sup>3</sup>

He adds that many of these come from the clowns or fools, or persons of disordered minds ;<sup>4</sup> and he gives many illustrations of references to romances, tales, ballads, and songs. It is also certain that the writer must have been well acquainted with English poetry. Drake says, with reference to this :<sup>5</sup> —

“That Shakespeare was an assiduous reader of English poetry ; that he studied with peculiar interest and attention his immediate predecessors and contemporaries ; there is abundant reason to conclude from a careful perusal of his volume of miscellaneous poetry, which is modelled on a strict adherence to the taste which prevailed at the opening of his career.”

<sup>1</sup> Ante, p. 11.

<sup>2</sup> 1 Percy Rel., 259 (ed. 1847).

<sup>3</sup> Page 278.

<sup>4</sup> *Ib.*, 284.

<sup>5</sup> Page 352.

Free use was also made of existing English plays, some of which were in manuscript, the property of the theatre. This was done sometimes by direct quotation or adaptation of the language, but oftener by borrowing plots, incidents, or scenes, improving upon the originals, and glorifying the thoughts which he found in them, as Raphael did in borrowing from Perugino's pictures. This is the province of genius. Occasionally a phrase was borrowed or adapted for the purpose of ridicule or raillery.

Some illustrations will be given, including references to plays then unpublished. In respect to these, however, positive demonstration is of course usually difficult.

Measure for Measure<sup>1</sup> is taken in part from Whetstone's prose narrative of Promos and Cassandra, printed in 1582, and perhaps from the play by the same author; and Whetstone is thought to have borrowed from one of Cinthio's Italian plays.

The Winter's Tale<sup>2</sup> is founded on Greene's Dorastus and Fawnia, 1588, otherwise called The Triumph of Time.

The plan of As You Like It<sup>3</sup> is borrowed from Lodge's pastoral romance, Rosalynde, 1590.

<sup>1</sup> Elze, 331; Gervinus, 435; Boas, 28, 358; 1 Ward, 216; 2 Ward, 154.

<sup>2</sup> Elze, 337; 1 Ward, 388, 389; 2 Ward, 192.

<sup>3</sup> Gervinus, 387; 1 Ward, 412; 2 Ward, 129.

King John,<sup>1</sup> according to Gervinus and Elze, follows an old play of the same name. Fleay<sup>2</sup> says it was founded on two plays by Peele, Marlowe, and Lodge, the plot being closely followed, and a few lines borrowed.

The Taming of the Shrew<sup>3</sup> has resemblances to another play, *The Taming of a Shrew*, printed in 1594, the authorship and priority of which are not positively settled; and it has been thought that perhaps both were founded on an earlier play, not now extant. Gascoigne's *Supposes*,<sup>4</sup> published in 1587, is thought to have furnished one of the incidents of Shakespeare's play, as well as the name Petruchio.

King Lear, according to Ward,<sup>5</sup> was founded upon an earlier play, acted April 6, 1593, entered on the Stationers' Register in 1594, and probably printed soon afterwards. No copy, however, is now known to be extant.<sup>6</sup>

Titus Andronicus<sup>7</sup> is thought by some to be merely a retouching of an earlier play.

Romeo and Juliet, published in 1597, was founded partly upon an English poem by Arthur Brooke, printed in 1562, and reprinted in 1582.<sup>8</sup>

<sup>1</sup> Gervinus, 353; Elze, 338.

<sup>2</sup> Fleay, *Life*, etc., 27.

<sup>3</sup> 1 Ward, 264, 312, 359; 2 *Ib.* 90-93; 3 Shakespeare (Camb. ed.), Pref. viii; 1 H.-P. 215; 2 *Ib.* 280; *Shakespeareana* for 1887, p. 297, article by Alfred R. Frey.

<sup>4</sup> Drake, 304, 457; 1 Ward, 263; Boas, 22.

<sup>5</sup> 1 Ward, 224; 2 *Ib.* 175.

<sup>6</sup> Furness, *King Lear*, App. 353.

<sup>7</sup> Rolfe, *Intro.* 13.

<sup>8</sup> Malone, quoted by Furness, *Romeo and Juliet*, 397.

or 1587.<sup>1</sup> Furness<sup>2</sup> quotes Boswell, Collier, Lloyd, Halliwell, and Dyce, as thinking that Shakespeare may have used an earlier play; and White,<sup>3</sup> as having a conviction that the *Romeo and Juliet* which has come down to us was first written by two or more playwrights, of whom Shakespeare was one, and that subsequently Shakespeare rewrote this old play. Drake<sup>4</sup> says that some imagery in Act V was borrowed from Daniel's *Complaint of Rosamond*.

*Romeo and Juliet* contains an allusion to King Cophetua, in the line —

“When King Cophetua loved the beggar maid.”<sup>5</sup>

Again, in 2 *King Henry IV* Falstaff says : —

“O base Assyrian knight, what is thy news?

Let King Cophetua know the truth thereof.”<sup>6</sup>

Again, in *Love's Labor's Lost*,<sup>7</sup> in Don Adriano's letter, King Cophetua is alluded to, and the beggar's name is given as Zenelophon. Percy thinks this is a corruption for Penelophon, 1 *Percy Rel.*, 205 n.

There was an old ballad on King Cophetua, reprinted by Percy,<sup>8</sup> which it would seem was first printed in 1612. Nares, in a passage quoted by Furness,<sup>9</sup> says : —

<sup>1</sup> Gervinus, 209.

<sup>2</sup> Page 421.

<sup>3</sup> II, i, 14.

<sup>7</sup> IV, i, 64 et seq.

<sup>9</sup> Furness, *Romeo and Juliet*, 89 n.

<sup>2</sup> Pages 399-408.

<sup>4</sup> Page 512.

<sup>6</sup> V, iii, 100.

<sup>8</sup> 1 *Percy Rel.*, 202.

"It has been conjectured that there was some old drama on this subject, from which probably the bombastic lines spoken by Ancient Pistol [error for Falstaff] were quoted."

Warburton <sup>1</sup> took the same view.

Furness cites Hartley Coleridge, who, after quoting from Drayton's Heroical Epistles, 1593, a passage resembling lines spoken by Romeo, says : —

"The number of passages in Drayton's Heroical Epistles almost identical with lines of Shakespeare, prove that the one must have been indebted to the other." <sup>2</sup>

There is a striking resemblance between Juliet's words, —

"At lovers' perjuries,  
They say, Jove laughs," <sup>3</sup> —

and a passage in Marlowe's Translation of Ovid's Art of Love, which is as follows : —

"For Jove himself sits in the azure skies,  
And laughs below at lovers' perjuries." <sup>4</sup>

The history of the play of Hamlet has already been referred to. There was an earlier play, not now extant, dating back to 1587 or 1589, which in the opinion of Dyce, as quoted by Furness, <sup>5</sup> was never printed. Some writers think it was written by Shakespeare, and others not. Their opinions are cited at some length by Fur-

<sup>1</sup> 1 Percy Rel., 201.

<sup>2</sup> Romeo and Juliet, 99 n.

<sup>3</sup> II, ii, 92.

<sup>4</sup> Furness, Romeo and Juliet, 102 n., citing Douce.

<sup>5</sup> Furness, 2 Hamlet, 9.

ness. Lee attributes this lost play to Kyd.<sup>1</sup> The inquiry of present interest, however, relates to Bacon. Did Bacon write the earlier play, and afterwards in 1603 or 1604 revise it, and put it into the form in which it has come down to us? Or did he obtain from the theatre or otherwise the manuscript copy of that play, and remodel it? Either supposition is attended with difficulties. In Hamlet's talk with the players,<sup>2</sup> he refers to a play containing "Æneas' tale to Dido; and thereabout of it especially, where he speaks of Priam's slaughter." This play, so far as known, was never published. Indeed, by some<sup>3</sup> it has been thought that there was no such play, and that the lines were written merely for Hamlet.

Hamlet's exclamation, "O Jephthah, judge of Israel, what a treasure hadst thou!"<sup>4</sup> refers to a ballad,<sup>5</sup> probably then unpublished; and in 1602 Dekker and Chettle were paid for writing a tragedy on the same subject.<sup>6</sup>

The Two Gentlemen of Verona, mentioned by Meres in 1598, was partly founded on Montemayor's *Diana*, a Spanish romance, of which an English translation existed in manuscript as early as 1583, though it was not published until 1598.<sup>7</sup>

Timon of Athens, first printed in the First

<sup>1</sup> Lee, 221.

<sup>2</sup> II, ii, 440 et seq.

<sup>3</sup> Cited by Furness, 1 Hamlet, 180-186 note.

<sup>4</sup> II, ii, 398.

<sup>5</sup> 1 Percy Rel., 193, 194.

<sup>6</sup> Furness, 1 Hamlet, 174, citing Collier.

<sup>7</sup> 2 Ward, 80; Brandes, 53.

Folio, 1623, is thought to have been based on an earlier manuscript play, now lost.<sup>1</sup> The editors of the Cambridge Shakespeare say: "The original play on which Shakespeare worked must have been written, for the most part, either in prose or in very irregular verse."<sup>2</sup> Ward<sup>3</sup> says that this is the more general view, and that no traces of such old play remain. So far as known, it never was printed.

In *Pericles*, some writers think that Shakespeare completed the work of a predecessor, and others that he collaborated with another writer in its composition.<sup>4</sup> The subject is discussed with some fullness by Ward.<sup>5</sup>

The origin of the three parts of King Henry VI has been the subject of much inquiry. Ward thinks that Part First was the work of several hands;<sup>6</sup> and that Shakespeare was the chief agent in revising and reforming earlier plays on which Parts Second and Third were founded, though probably Marlowe had some share in it.<sup>7</sup> He gives a summary of the views of different writers upon the disputed question whether Shakespeare had a part in the composition of the earlier plays.<sup>8</sup> However this may have been, there is certainly much difficulty in introducing Bacon

<sup>1</sup> Drake, 553; Brandes, 557, 558.

<sup>2</sup> 7 Shakespeare, Pref. vii.

<sup>3</sup> 2 Ward, 178.

<sup>4</sup> Drake, 480; 2 Hallam, *Lit. Eur.*, 238 n.; 3 *Ib.* 327, 328.

<sup>5</sup> 2 Ward, 180-184.

<sup>6</sup> 2 Ward, 73.

<sup>7</sup> *Ib.*, 71.

<sup>8</sup> See Gervinus, 118; Lee, 58-60.

either as sole writer or collaborator. Ward also says that there is a noticeable similarity between a number of passages in Parts Second and Third and a corresponding series in Marlowe's *Edward II.*<sup>1</sup> Fleay says that 3 *King Henry VI* has many parallel passages from Marlowe and others.<sup>2</sup>

The *Tempest* is thought by Ward<sup>3</sup> to have been borrowed to some extent from a German play, *The Fair Sidea*, by Jacob Ayrrer, Shakespeare's knowledge of that play probably having been gained through English actors who had returned from Germany. Furness,<sup>4</sup> however, thinks there are no common points of any importance, and he gives a translation of the whole play.<sup>5</sup> Charles Lamb<sup>6</sup> thought that one passage had reference to some old narrative upon which the story was founded.

In *The Merchant of Venice*, it is thought that an old play, mentioned by Gosson in 1579 in his *School of Abuse*, was used.<sup>7</sup> If this old play was ever printed, no copy is known to be now extant. The plot of *The Merchant of Venice* was perhaps taken from the ballad of *Gerwinus*, reprinted by Furness;<sup>8</sup> but of this, again,

<sup>1</sup> 1 Ward, 348, 349.

<sup>2</sup> Fleay, *Life and Work of Shakespeare*, 274.

<sup>3</sup> 2 Ward, 195.

<sup>4</sup> Furness, *The Tempest*, Pref. x.

<sup>5</sup> Page 325 et seq.

<sup>6</sup> Cited in Furness, *The Tempest*, 60 n.

<sup>7</sup> Furness, *Mer. Ven.*, 319-321; Gervinus, 231.

<sup>8</sup> Furness, *Mer. Ven.*, 288.

no copy of the time of Shakespeare is known to exist.<sup>1</sup> The old Italian story, *Il Pecorone*, no English translation of which had been published in Shakespeare's time, contained the main features of the story of Shylock's bond. This also is reprinted by Furness.<sup>2</sup> It has also been maintained that the prototype of Shylock is to be found in Marlowe's *Jew of Malta*.<sup>3</sup> Boas<sup>4</sup> says that Greene's *Orlando Furioso* foreshadows a leading situation in *The Merchant of Venice*. Ward<sup>5</sup> mentions other possible sources of which some use may have been made.

Fleay<sup>6</sup> says that Parolles's scene in *All's Well* has a distinct allusion to Marston's *Jack Drum's Entertainment*, of the year before; and that Shakespeare reproduced many of Lyly's puns and conceits, and some few of his dramatic situations.<sup>7</sup>

In *King Henry V*, the description of the government of the honey bees<sup>8</sup> is thought to have been suggested by a similar description in Lyly's *Euphues*, a romance published in 1581.<sup>9</sup>

Possible earlier plays have also been conjecturally assigned as partial sources of *Macbeth*,<sup>10</sup> of *Midsummer Night's Dream*,<sup>11</sup> of *The Comedy*

<sup>1</sup> Halliwell, cited by Furness, 292.

<sup>2</sup> Furness, *Mer. Ven.*, 298-303.

<sup>3</sup> See citations in Furness, *Mer. Ven.*, 322-324; also Boas, 51, 216.

<sup>4</sup> Boas, 78.

<sup>5</sup> 2 Ward, 108-111; 1 *Ib.* 140, 141 n., 340-346.

<sup>6</sup> Fleay, *Life*, etc., 42.

<sup>7</sup> *Ib.*, 74.

<sup>8</sup> I, ii, 187-204.

<sup>9</sup> Knight, 239.

<sup>10</sup> Citations in Furness, *Macbeth*, App. 387.

<sup>11</sup> Furness, *Mid. N. D.*, Pref. xxii.

of Errors,<sup>1</sup> of Troilus and Cressida,<sup>2</sup> of Much Ado about Nothing,<sup>3</sup> of King Richard II,<sup>4</sup> of The Merry Wives of Windsor,<sup>5</sup> and perhaps of some others.

In Julius Cæsar, the phrase, "Et tu, Brute,"<sup>6</sup> is borrowed from the earlier play on which 3 King Henry VI was founded.<sup>7</sup>

In Much Ado about Nothing, the line,<sup>8</sup> "In time the savage bull doth bear the yoke," is borrowed from Kyd's Spanish Tragedy, or from Watson's Passionate Century of Love.<sup>9</sup>

In The Merry Wives of Windsor, the lines in Sir Hugh Evans's song, —

"To shallow rivers, to whose falls  
Melodious birds sing madrigals,"<sup>10</sup>

are borrowed from Marlowe; but they are misquoted.<sup>11</sup>

In King John,<sup>12</sup> "basilisco-like" refers to an old play, Solyman and Perseda,<sup>13</sup> which was not printed till 1599.<sup>14</sup> As King John was written before that time, Shakespeare had probably seen the old play in manuscript or on the stage.

In King Henry IV, according to Gervinus,<sup>15</sup>

<sup>1</sup> 1 Ward, 263; Lee, 54.

<sup>2</sup> Lee, 225; Gervinus, 681.

<sup>3</sup> 2 Ward, 133; Furness, Much Ado, Pref. xxvi.

<sup>4</sup> Gervinus, 279.

<sup>5</sup> 2 Ward, 137.

<sup>6</sup> 6 Shakespeare (Bost. ed. 1846), 46 n.

<sup>7</sup> III, i, 77.

<sup>8</sup> Lee, 222 n.; Furness, Much Ado, 36.

<sup>8</sup> I, i, 226.

<sup>9</sup> Drake, 280.

<sup>10</sup> III, i, 15.

<sup>11</sup> 3 Shakespeare (Boston ed. 1846), 275.

<sup>12</sup> I, i, 244.

<sup>13</sup> Page 335.

<sup>14</sup> 1 Ward, 309.

Pistol speaks with bombast and affectation, in pompous phrases gathered from miserable tragedies, and had crammed himself with fragments of plays learned by heart. In 2 King Henry IV [printed in 1600], Pistol says: "Have we not Hiren here?"<sup>1</sup> This is taken from an unpublished play attributed to Peele,<sup>2</sup> and called *The Turkish Mahomet and Hiren the Fair Greek*. Similar words occur also in the later play of *Eastward Ho*, 1605, written by Chapman and others. In the same scene Pistol says:<sup>3</sup> —

"And hollow, pampered jades of Asia,  
Which cannot go but thirty miles a day."

This is adapted<sup>4</sup> from the following passage in Marlowe's *Tamburlaine the Great*: —

"Holla, ye pampered jades of Asia!  
What, can ye draw but twenty miles a day?"

Again, in the same scene, Pistol says: —

"Then feed, and be fat, my fair Calipolis."<sup>5</sup>

This is a burlesque on a line in Peele's *Battle of Alcazar*:<sup>6</sup> —

"Feed then, and faint not, my fair Calipolis."

In 1 King Henry IV,<sup>7</sup> Falstaff says he will speak in King Cambyeses's vein, referring to Preston's *Cambyeses*.<sup>8</sup>

<sup>1</sup> II, iv, 150, 165.

<sup>3</sup> II, iv, 155.

<sup>6</sup> II, iv, 169.

<sup>7</sup> II, iv, 376.

<sup>2</sup> Drake, 459; 1 Ward, 374.

<sup>4</sup> 1 Ward, 324 n.; Elze, 137 n.

<sup>6</sup> 4 Shakespeare (Boston ed. 1846), 44.

<sup>8</sup> 1 Ward, 205, 206.

In the same play, in his speech to Prince Hal,<sup>1</sup> beginning, "Harry, I do not only marvel where thou spendest thy time, but also how thou art accompanied," he also parodied Lyly's Euphuism.<sup>2</sup>

Ward says that in the play of *The Famous Victories of Henry V*, produced not later than 1588, we recognize familiar scenes and favorite figures of Shakespeare's *Henry IV* and *Henry V*.<sup>3</sup>

In *As You Like It*, Phebe says : —

"Dead Shepherd, now I find thy saw of might,  
Who ever loved that loved not at first sight?"<sup>4</sup>

The second line is taken from Marlowe's *Hero and Leander*.<sup>5</sup> In the same play *Touchstone* says : —

"This is the very false gallop of verses : why do you infect yourself with them?"<sup>6</sup>

Furness<sup>7</sup> thinks this contains an allusion to Nash.

In *Troilus and Cressida*, *Troilus* says : —

"Is she worth keeping? Why, she is a pearl,  
Whose price hath launched above a thousand ships."<sup>8</sup>

The second line is adapted from a line in Marlowe's *Dr. Faustus* : —

"Was this the face that launched a thousand ships?"<sup>9</sup>

<sup>1</sup> II, iv, 387.

<sup>3</sup> 1 Ward, 222, 223.

<sup>5</sup> Elze, 137 n.

<sup>7</sup> Furness, *As You Like It*, 146 n.

<sup>8</sup> II, ii, 81.

<sup>2</sup> Boas, 72, 73.

<sup>4</sup> III, v, 80.

<sup>6</sup> III, ii, 103.

<sup>9</sup> 1 Ward, 337.

Robert Greene's letter<sup>1</sup> to Marlowe, Lodge, and Peele implies a charge that Shakespeare had borrowed from them, and apparently in part at least from plays which had not been published. Drake thinks that one of these was the original sketch of *Love's Labor's Lost*.<sup>2</sup> Boas thinks that Shakespeare owed something to Greene in respect to Oberon in *Midsummer Night's Dream*, and also in respect to Prince Hal in *Henry IV*.<sup>3</sup> It is noticeable that Greene's attack is directed against Shakespeare, and not against Bacon.

The list of instances which indicate or at least suggest the use of earlier plays might be extended, but enough have been given to show that the writer of the Shakespearian plays was in the habit of resorting freely to such sources for plots, incidents, phrases, turns of expression, or other assistance. Shakespeare of course lived in the very atmosphere of the theatre where these old plays were owned and used. But nothing is known of Bacon which shows that he was familiar even with such of the romances, songs, ballads, or plays as had then been published, and much less that he had or could have had any knowledge of or access to such as were still unpublished. Nor is it easy to believe that he was ever engaged in revamping the old plays of other writers for immediate use in the theatre.

<sup>1</sup> Copied in 1 H.-P. 301, 302.    <sup>2</sup> Page 488.    <sup>3</sup> Pages 80, 82, 83.

A consideration of some weight is also to be found in the anachronisms, the historical and geographical errors, and other mistakes found in the plays.

Anachronisms and other errors.

Bacon was a learned man, and therefore more likely to be accurate in his writings. An argument against Shakespeare's authorship is that probably he could not have acquired the knowledge, of various kinds, shown in the plays. An argument against Bacon's authorship is that probably he would not have fallen into the errors found in them. Neither of these arguments is conclusive. Assume genius, and Shakespeare would acquire knowledge rapidly, as opportunity offered. On the other hand, Spedding has shown<sup>1</sup> that it was quite possible for Bacon to fall into errors, even when writing history. Nevertheless, the argument drawn from the existence of a great number of errors of different kinds in the plays is worthy of attention.

Anachronisms, geographical and historical errors, and other mistakes arising from imperfect knowledge of, or inattention to, facts which are only to be gathered from books, are less likely to be found in the writings of a scholar than in those of a man like Shakespeare. We can easily imagine that the latter might not have the exact facts at command, or regard accuracy in such matters as of great importance. Neither Bacon

<sup>1</sup> 11 Bacon, Pref. and Notes to History of King Henry VII.

nor Jonson, for example, would have been likely to describe a shipwreck as occurring in Bohemia,<sup>1</sup> or to make Hotspur of the same age as Prince Henry, when he was twenty-four years older, or to represent him as a "Mars in swathing clothes, this infant warrior," when he was in his fortieth year, or to give him his death at the hand of Prince Henry, or to make him call his wife Kate, when her name was Elizabeth.<sup>2</sup>

Without going into detail in enumerating these errors, some of the sources of information upon the subject will be mentioned. In the first place, reference may be made to the long list of incongruities and anachronisms given by Douce in his *Illustrations of Shakspeare*. This list, long as it is, has been added to by Gervinus, by Elze, and by other writers. In the plays relating to the history of England, many mistakes of much greater significance, as bearing upon this question, have been pointed out. Some of these are mentioned in Vaughan's *Notes on Shake-*

<sup>1</sup> *Winter's Tale*.

<sup>2</sup> The time of the play of *King Richard II* is from 1398 to 1400; and of the *First Part of King Henry IV* from September, 1402, to July, 1403. Prince Henry was born August 19, 1388, and was therefore not quite fifteen years old at the battle of Shrewsbury in July, 1403. Hotspur was born May 20, 1364; he fought Douglas in the battle of Otterbourne in August, 1388; he married Elizabeth Mortimer, sister of Sir Edward Mortimer; and in July, 1403, he was killed in the battle of Shrewsbury, not in a hand-to-hand fight, but by an arrow shot by an unknown person. (2 *Knight's Hist. England*, 49.) In *King Richard II* and in 1 *King Henry IV* he is referred to as young, raw, and as a boy; and in the latter play he is said to be of the same age as Prince Henry. (I, i, 86-90; III, ii, 103.)

speare's Historical Plays; and others in Courtenay's Commentaries on the Historical Dramas, a work written for the purpose of showing that the plays are not safe guides in historical details. Courtenay says : —

“ Either he or his more ancient author has taken such liberties with facts and dates, and has omissions so important, as to make the pieces, however admirable as a drama, quite unsuitable as a medium of instruction to the English youth.”

Many such errors are also pointed out in the notes to different editions of Shakespeare, as, for example, by Malone, by Singer, and by Rolfe. In some of these plays errors of Holinshed are followed. Shakespeare would not naturally have looked beyond his immediate authority for the purpose of verifying historical facts. But Bacon had a contempt for preceding historical writers, which he did not hesitate to express.<sup>1</sup> Similar mistakes, though fewer in number, have been found in other plays, chiefly in those representing ancient history. There are also many instances of grammatical errors. Some of these are corrected in the Cambridge edition.<sup>2</sup>

There are other considerations, partly of a typographical character, which tend in the same direction. It has been suggested by Holmes<sup>3</sup>

<sup>1</sup> 11 Bacon, 34, 35, Preface to History of Reign of Henry VII.

<sup>2</sup> Vol. 1, Note 1, at end of *The Tempest*.

<sup>3</sup> Pages 72-80, 341.

that Bacon, while engaged upon his other work from 1621 to 1623, probably prepared the First Folio edition for publication. Errors, obscurities, and other peculiarities in the text. Holmes<sup>1</sup> even thinks this volume may have been the gift to Tobie Matthew which elicited the latter's well-known acknowledgment. If Bacon wrote the plays, it certainly is quite probable that he would make a complete and final revision of them, in order to leave them in as perfect condition as possible, even though he concealed his name. He was also at comparative leisure for two or three years before the publication of that edition. The great care bestowed upon his acknowledged writings has already been adverted to. Nevertheless, it seems to be quite certain that he did not revise the plays for publication, either in the First Folio edition, or in the earlier quartos. In the first place, the theory of such revision is negatived by the existence of the numerous errors, obscurities, and unintelligible words and passages which are found in all the editions. These have been the puzzle of the critics, and some are yet unsolved. Hallam speaks of "the very numerous passages which yield to no interpretation, knots which never are unloosed, which conjecture does but cut."<sup>2</sup> Elze says that the Folio,<sup>3</sup> even when measured by the standard of its own day, must

<sup>1</sup> Pages 172 et seq.

<sup>2</sup> 3 Literature of Europe, 332.

<sup>3</sup> Page 294.

be termed a badly and carelessly printed book. He doubts whether Shakespeare attended to the printing of any of the quartos, because so many mistakes are found in them.<sup>1</sup> Furness doubts if Shakespeare revised the press at all.

Another noticeable feature of the First Folio and of the earlier editions is that sometimes the names of the actors were put for the names of the characters represented. Rolfe has noted instances of this kind occurring in 1 and 2 King Henry IV, King Henry VI, and *Much Ado about Nothing*,<sup>2</sup> and in *The Taming of the Shrew*. Additional instances in *Romeo and Juliet* and in *Midsummer Night's Dream* have been noted by Furness. In this manner the names of Kemp, Cowley, Gabriel, Sinklo, Humfrey, Harvey, Rossill, Tawyer, and Jack Wilson, all actors or persons employed in the theatre, have been embalmed.

In an article in the *Critic* for November, 1899, Rolfe compiles various other information about the First Folio and the earlier editions. He clearly refutes the theory that Bacon could have supervised the publication of the First Folio, and the same considerations are to some extent applicable to the earlier quartos. But if Bacon did not supervise the publication, this fact tends to negative the idea of his authorship.

<sup>1</sup> Page 283.

<sup>2</sup> See also Furness, *Much Ado*, Preface, v, xii.

## CHAPTER XIII

### FAMILIARITY WITH THEATRICAL MATTERS

IT is agreed on all hands that the writer of the plays had an intimate knowledge of theatrical matters and of stage situations and business. Elze says, "One point on which all commentators and critics are now agreed is that Shakespeare must have thoroughly understood the theory and the art of acting, for of this he has given unmistakable evidence in the famous and often quoted passage in his *Hamlet*."<sup>1</sup> Furnivall says, "Of stage situations and business, Shakspeare started with a perfect mastery."<sup>2</sup> The passage in *Hamlet* is only one amongst many which support this view. But, independently of direct exposition or statement, it is obvious that the writer could picture to himself the action of each scene which he presented; he anticipated and provided for effective representation on the stage, both in the general arrangement of the scenes and in matters of smallest detail. A poet, however great in other respects, if unable to do this, will hardly succeed in writing good acting plays. Byron, Browning, and Ten-

<sup>1</sup> Pages 235, 236.

<sup>2</sup> *Introd. to Gervinus, xxxv.*

nyson are instances of this. It is said that Bulwer profited by the assistance of Macready in *Richelieu* and in *Money*. Tennyson was helped by Irving in arranging *Becket* for the stage. Many, if not most, of the dramatists of Shakespeare's time were actors. Amongst these were the two Greenes, Peele, Jonson, Heywood, Field, Rowley, Armin, Monday, Webster, Chettle, Kyd, Dekker, Wadeson, and probably Nash and Wilson;<sup>1</sup> as was also Molière at a later date. The plays of Shakespeare were written for the purpose of being acted on the stage, and they were acted with a degree of success probably not reached by others. They abound in situations which suggest and invite effective action. The observant playgoer is well aware of this, and no citations need be made for the purpose of illustration.

In addition to this, however, some of the plays are full of express allusions sometimes to actors personally, but oftener to the actors' art, habits, ways of life, thoughts, and feelings, and in no single play is some allusion of this kind entirely wanting. Their number is probably greater than is generally supposed, although reference has occasionally been made to them. *Castles*, for example, gives some illustrative instances.<sup>2</sup> Stress has often been laid upon the

<sup>1</sup> Fleay, *Hist. of London Stage*, 72, 167; Knight, 301; Collier, *Life of Shakespeare*, cxii, cxiii; 2 *Hist. English Dram. Poetry*, 442, 443.

<sup>2</sup> Shakespeare, Bacon, Jonson, and Greene, 284 et seq.

familiarity shown with law, medicine, insanity, history, natural history, botany, music, navigation, and military affairs. Legal terms and allusions have been industriously collected, and the other branches of knowledge have not been neglected. But since Shakespeare was an actor, nobody has been surprised at the allusions to the theatre. When, however, it is contended that Bacon wrote the plays, it becomes of interest to look into this matter more in detail; and the result of such an examination may well lead the curious student to consider whether it would be more remarkable that Shakespeare should know so much about law, or that Bacon should know so much about actors and acting. Bacon's part in the preparation of masques and dumb shows and his theatrical experiences when young<sup>1</sup> (though they should not be overlooked) were too slight and casual to be of much importance on this question. It would probably be hard to convince an experienced and successful Shakespearean actor that the plays were written by Bacon. Booth and Irving have expressed their opinions to the contrary.

It is only by looking at these instances in some detail that the full force of this consideration is felt. Accordingly, though with some hesitation on account of their being so familiar

<sup>1</sup> See 1 Ward, 219; Gervinus, 69, 93. Fleay, in 1 Chronicle of the English Drama, 27, 28, gives an enumeration, apparently designed to be complete, of Bacon's participation in the preparation of masks.

to most readers, the following list (not complete) of such allusions is given, taking the plays in the order of the Cambridge edition. Many of them, as will be seen, speak from an actor's personal point of view, and are expressed in the technical language of players ; and, it is believed, without error or inaccuracy, such as occasionally appears in the use of legal terms. But the opinion of an intelligent actor or other competent theatrical expert is still much to be desired upon the two questions, whether the plays contain language of the stage which is so purely technical that Bacon would not probably have been familiar with it, and whether in any instances such language is used incorrectly or inaccurately.

*The Tempest.*

"To have no screen between this part he played  
And him he played it for." <sup>1</sup>

"And by that destiny, to perform an act  
Whereof what's past is prologue." <sup>2</sup>

"Prompt me, plain and holy innocence." <sup>3</sup>

"I cannot too much muse  
Such shapes, such gesture, and such sound, expressing  
Although they want the use of tongue — a kind  
Of excellent dumb discourse." <sup>4</sup>

"Our revels now are ended. These our actors,  
As I foretold you, were all spirits." <sup>5</sup>

<sup>1</sup> I, ii, 107.

<sup>3</sup> III, i, 82.

<sup>5</sup> IV, i, 148.

<sup>2</sup> II, i, 243.

<sup>4</sup> III, iii, 36.

"Like this insubstantial pageant faded."<sup>1</sup>

"When I presented Ceres,  
I thought to have told thee of it."<sup>2</sup>

A mask is performed in Act IV, Scene i.

*The Two Gentlemen of Verona.*

"At Pentecost,  
When all our pageants of delight were played,  
Our youth got me to play the woman's part,  
And I was trimmed in Madam Julia's gown;  
Which served me as fit, by all men's judgments,  
As if the garment had been made for me:  
Therefore I know she is about my height.  
And at that time I made her weep agoon,  
For I did play a lamentable part:  
Madam, 't was Ariadne passioning  
For Theseus' perjury and unjust flight;  
Which I so lively acted with my tears,  
That my poor mistress, moved therewithal,  
Wept bitterly; and, would I might be dead,  
If I in thought felt not her very sorrow."<sup>3</sup>

*The Merry Wives of Windsor.*

"The clock gives me my cue."<sup>4</sup>

"*Mrs. F.* Mistress Page, remember you your cue.

*Mrs. P.* I warrant thee; if I do not act it, hiss me."<sup>5</sup>

"After we had embraced, kissed, protested, and, as it were, spoke the prologue of our comedy."<sup>6</sup>

"The children must  
Be practised well to this, or they'll ne'er do it."<sup>7</sup>

<sup>1</sup> IV, i, 155.

<sup>3</sup> IV, iv, 154.

<sup>5</sup> III, iii, 31.

<sup>7</sup> IV, iv, 63.

<sup>2</sup> IV, i, 167.

<sup>4</sup> III, ii, 38.

<sup>6</sup> III, v, 66.

"My Nan shall be the queen of all the fairies,  
Finely attired in a robe of white."<sup>1</sup>

"Go get us properties  
And tricking for our fairies."<sup>2</sup>

"Fat Falstaff  
Hath a great scene."<sup>3</sup>

"Trib, trib, fairies; come; and remember your parts:  
be pold, I pray you; follow me in to the pit; and when I  
give the watch-ords, do as I bid you: come, come; trib,  
trib."<sup>4</sup>

The fairies are personated in Act V, Scene v.

*Measure for Measure.*

"I love the people,  
But do not like to stage me to their eyes:  
Though it do well, I do not relish well  
Their loud applause and Aves vehement."<sup>5</sup>

"As these black masks  
Proclaim an enshield beauty ten times louder  
Than beauty could, displayed,"<sup>6</sup>—

referring probably to the masks worn by female  
spectators of the play.

*Comedy of Errors.*

"Dromio, play the porter well."<sup>7</sup>

*Much Ado about Nothing.*

"Or do you play the flouting Jack?"<sup>8</sup>

<sup>1</sup> IV, iv, 69.

<sup>2</sup> IV, vi, 16.

<sup>3</sup> I, i, 68.

<sup>7</sup> II, ii, 210.

<sup>2</sup> IV, iv, 77.

<sup>4</sup> V, iv, 1.

<sup>6</sup> II, iv, 78.

<sup>8</sup> I, i, 157.

"I know we shall have revelling to-night ;  
I will assume thy part in some disguise." <sup>1</sup>

"Troth, my lord, I have played the part of Lady Fame." <sup>2</sup>

"Speak, count, 't is your cue." <sup>3</sup>

"That's the scene that I would see, which will be merely a dumb show." <sup>4</sup>

"I have studied eight or nine wise words to speak to you, which these hobby-horses must not hear." <sup>5</sup>

"Hero and Margaret have by this played their parts with Beatrice." <sup>6</sup>

"You, constable, are to present the prince's own person." <sup>7</sup>

*Love's Labor's Lost.*

"Where is the bush  
That we must stand and play the murderer in?" <sup>8</sup>

"All hid, all hid, an old infant play." <sup>9</sup>

"O, what a scene of foolery have I seen." <sup>10</sup>

"We will with some strange pastime solace them,  
Such as the shortness of the time can shape." <sup>11</sup>

"I abhor such fanatical phantasimes, such insociable and point-devise companions ; such rackers of orthography, as to speak dout, fine, when he should say doubt ; det, when he should pronounce debt, — d, e, b, t, not d, e, t ; he clep-eth a calf, cauf ; half, hauf ; neighbor vocatur nebor ; neigh abbreviated ne. This is abhominable — which he would call abominable." <sup>12</sup>

<sup>1</sup> I, i, 282.

<sup>2</sup> II, i, 274.

<sup>3</sup> III, ii, 64.

<sup>4</sup> III, iii, 68.

<sup>5</sup> IV, iii, 74.

<sup>6</sup> IV, iii, 373.

<sup>7</sup> II, i, 189.

<sup>8</sup> II, iii, 198.

<sup>9</sup> III, ii, 68.

<sup>10</sup> IV, i, 7.

<sup>11</sup> IV, iii, 159.

<sup>12</sup> V, i, 15.

This appears to be in ridicule of some actor.  
In Act V a mimic play is proposed.

*Hol.* Sir, you shall present before her the Nine Worthies. Sir, as concerning some entertainment of time, some show in the posterior of this day, to be rendered by our assistants, at the king's command, and this most gallant, illustrate, and learned gentleman, before the princess; I say none so fit as to present the Nine Worthies.

*Nath.* Where will you find men worthy enough to present them?

*Hol.* Joshua, yourself; myself and this gallant gentleman, Judas Maccabæus; this swain, because of his great limb or joint, shall pass Pompey the Great; the page, Hercules, —

*Arm.* Pardon, sir, error; he is not quantity enough for that Worthy's thumb; he is not so big as the end of his club.

*Hol.* Shall I have audience? He shall present Hercules in minority; his enter and exit shall be strangling a snake; and I will have an apology for that purpose.

*Moth.* An excellent device! so, if any of the audience hiss, you may cry, 'Well done, Hercules! now thou crushest the snake!' That is the way to make an offence gracious, though few have the grace to do it.

*Arm.* For the rest of the Worthies? —

*Hol.* I will play three myself.

*Moth.* Thrice-worthy gentleman."<sup>1</sup>

"Action and accent did they teach him there;  
'Thus must thou speak,' and 'thus thy body bear.'"<sup>2</sup>

"Why that contempt will kill the speaker's heart  
And quite divorce his memory from his part."<sup>3</sup>

"Their shallow shows and prologue vilely penned."<sup>4</sup>

<sup>1</sup> V, i, 102.

<sup>3</sup> V, ii, 149.

<sup>2</sup> V, ii, 99.

<sup>4</sup> V, ii, 305.

"A blister on his sweet tongue, with my heart,  
That put Armado's page out of his part."<sup>1</sup>

"To dash it like a Christmas comedy."<sup>2</sup>

*Cost.* O Lord, sir, the parties themselves, the actors, sir, will show whereuntil it doth amount: for mine own part, I am, as they say, but to perfect one man in one poor man, Pompion the Great, sir.

*Bir.* Art thou one of the Worthies?

*Cost.* It pleased them to think me worthy of Pompion the Great: for mine own part, I know not the degree of the Worthy, but I am to stand for him.

*Bir.* Go, bid them prepare.

*Cost.* We will turn it finely off, sir; we will take some care."<sup>3</sup>

"*King.* Here is like to be a good presence of Worthies. He presents Hector of Troy; the swain, Pompey the Great; the parish curate, Alexander; Armado's page Hercules; the pedant, Judas Maccabæus. And if these four Worthies in their first show thrive, These four will change habits, and present the other five."<sup>4</sup>

The mimic play begins, and proceeds with comments from the spectators. Then, —

"*Cost.* O, sir, you have overthrown Alisander the conqueror! You will be scraped out of the painted cloth for this: your lion, that holds his poll-axe sitting on a close-stool, will be given to Ajax."<sup>5</sup>

"Keep some state in thy exit, and vanish."<sup>6</sup>

"Our wooing doth not end like an old play;  
Jack hath not Jill: these ladies' courtesy  
Might well have made our sport a comedy."<sup>7</sup>

"That's too long for a play."<sup>8</sup>

<sup>1</sup> V, ii, 335.

<sup>2</sup> V, ii, 499.

<sup>3</sup> V, ii, 569.

<sup>7</sup> V, ii, 862.

<sup>2</sup> V, ii, 462.

<sup>4</sup> V, ii, 530.

<sup>6</sup> V, ii, 587.

<sup>8</sup> V, ii, 866.

*A Midsummer Night's Dream.*

In *A Midsummer Night's Dream*, the preparation and presentation of the mimic play by Bottom and his associates are full of the flavor of the stage. As the whole of it cannot be copied, a few citations must suffice: —

"Let the audience look to their eyes; I will move storms." <sup>1</sup>

"*Snug*. Have you the lion's part written? pray you, if it be, give it me, for I am slow of study.

*Quin*. You may do it extempore, for it is nothing but roaring.

*Bot*. Let me play the lion too: I will roar, that I will do any man's heart good to hear me; I will roar, that I will make the duke say, 'Let him roar again, let him roar again.'" <sup>2</sup>

"I will discharge it in either your strawcolor beard, your orange-tawny beard, your purple-ingrain beard, or your French crowncolor beard, your perfect yellow." <sup>3</sup>

"I will draw a bill of properties, such as our play wants." <sup>4</sup>

"Here's a marvellous convenient place for our rehearsal. This green plot shall be our stage, this hawthorn-brake our tiring-house; and we will do it in action as we will do it before the duke." <sup>5</sup>

"Write me a prologue; and let the prologue seem to say, we will do no harm with our swords," <sup>6</sup> etc.

"Come, sit down, every mother's son, and rehearse your parts. Pyramus, you begin: when you have spoken your

<sup>1</sup> I, ii, 21.

<sup>3</sup> I, ii, 82.

<sup>5</sup> III, i, 2.

<sup>2</sup> I, ii, 58.

<sup>4</sup> I, ii, 93.

<sup>6</sup> III, i, 16.

speech, enter into that brake : and so every one according to his cue." <sup>1</sup>

"You speak all your part at once, cues and all. Pyramus enter : your cue is past ; it is ' never tire.' " <sup>2</sup>

"Forsook his scene, and entered in a brake." <sup>3</sup>

"Shall we their fond pageant see ?" <sup>4</sup>

"When my cue comes, call me, and I will answer. My next is, ' Most fair Pyramus.' " <sup>5</sup>

"You have not a man in all Athens able to discharge Pyramus but he." <sup>6</sup>

"Get your apparel together, good strings to your beards, new ribbons to your pumps ; . . . every man look o'er his part ; . . . let Thisby have clean linen." <sup>7</sup>

"Is there no play,

To ease the anguish of a torturing hour ?" <sup>8</sup>

"Say, what abridgement have you for this evening ?" <sup>9</sup>

"A tedious brief scene of young Pyramus." <sup>10</sup>

"A play there is, my lord, some ten words long,  
Which is as brief as I have known a play." <sup>11</sup>

"He hath rid his prologue like a rough colt ; he knows not the stop." <sup>12</sup>

"'Deceiving me' is Thisby's cue : she is to enter now." <sup>13</sup>

"The best in this kind are but shadows ; and the worst are no worse, if imagination amend them." <sup>14</sup>

"No epilogue, I pray you ; for your play needs no excuse. . . . If he that writ it had played Pyramus and

<sup>1</sup> III, i, 64.

<sup>2</sup> III, ii, 15.

<sup>3</sup> IV, i, 197.

<sup>4</sup> IV, ii, 31.

<sup>5</sup> V, i, 39.

<sup>6</sup> V, i, 61.

<sup>7</sup> V, i, 182.

<sup>8</sup> III, i, 89.

<sup>9</sup> III, ii, 114.

<sup>10</sup> IV, ii, 7.

<sup>11</sup> V, i, 36.

<sup>12</sup> V, i, 56.

<sup>13</sup> V, i, 119.

<sup>14</sup> V, i, 210.

hanged himself in Thisbe's garter, it would have been a fine tragedy; and so it is, truly; and very notably discharged. But come, your Bergomask [this was a kind of dance]: let your epilogue alone."<sup>1</sup>

*The Merchant of Venice.*

"*Ant.* A stage, where every man must play a part,  
And mine a sad one.

*Grat.* Let me play the fool."<sup>2</sup>

"Use all the observance of civility  
Like one well studied in a sad ostent."<sup>3</sup>

*As You Like It.*

"*Duke S.* This wide and universal theatre  
Presents more woeful pageants than the scene  
Wherein we play in.

*Jaq.* All the world's a stage,  
And all the men and women merely players:  
They have their exits and their entrances;  
And one man in his time plays many parts,  
His acts being seven ages."<sup>4</sup>

"I answer you right painted cloth, from whence you have  
studied your questions."<sup>5</sup>

"If you will see a pageant truly played."<sup>6</sup>

"I'll prove a busy actor in their play."<sup>7</sup>

"It is not the fashion to see the lady the epilogue; but  
it is no more unhandsome than to see the lord the pro-  
logue. . . . A good play needs no epilogue: yet . . . good  
plays prove the better by the help of good epilogues."<sup>8</sup>

The motto over the entrance to the Globe Thea-

<sup>1</sup> V, i, 345.

<sup>2</sup> II, ii, 180.

<sup>3</sup> III, ii, 258.

<sup>4</sup> III, iv, 54.

<sup>5</sup> I, i, 77.

<sup>6</sup> II, vii, 137.

<sup>7</sup> III, iv, 47.

<sup>8</sup> Epil.

tre was, "Totus mundus agit histrionem," — All the world's a stage.<sup>1</sup>

*The Taming of the Shrew.*

In *The Taming of the Shrew*, there is a play within a play : —

"My lord, I warrant you we will play our part."<sup>2</sup>

*Lord.* This fellow I remember,  
Since once he played a farmer's eldest son :  
'T was where you woo'd the gentlewoman so well ;  
I have forgot your name ; but, sure, that part  
Was aptly fitted and naturally performed.

*A Player.* I think 't was Soto that your honor means.

*Lord.* 'T is very true ; thou didst it excellent.

There is a lord will hear you play to-night :  
But I am doubtful of your modesties ;  
Lest over-eyeing of his odd behavior, —  
For yet his honor never heard a play, —  
You break into some merry passion  
And so offend him ; for I tell you, sirs,  
If you should smile he grows impatient.

*A Player.* Fear not, my lord : we can contain ourselves,  
Were he the veriest antic in the world."<sup>3</sup>

Then instructions follow as to the preparation of the scene.

"Your honor's players, hearing your amendment,  
Are come to play a pleasant comedy.

Therefore they thought it good you hear a play,  
And frame your mind to mirth and merriment,  
Which bars a thousand harms and lengthens life."<sup>4</sup>

<sup>1</sup> Drake, p. 445.

<sup>3</sup> Induct. i, 81.

<sup>2</sup> Induct. i, 67.

<sup>4</sup> Induct. ii, 126.

"*First Serv.* My lord, you nod ; you do not mind the play.

*Sly.* Yes, by Saint Anne, do I. A good matter, surely : comes there any more of it ?

*Page.* My lord, 't is but begun.

*Sly.* 'T is a very excellent piece of work, madam lady : would 't were done."<sup>1</sup>

"For an entrance to my entertainment."<sup>2</sup>

"Where did you study all this goodly speech?"<sup>3</sup>

*All's Well that Ends Well.*

"Thus he his special nothing ever prologues."<sup>4</sup>

"A showing of a heavenly effect in an earthly actor."<sup>5</sup>

"Has led the drum before the English tragedians."<sup>6</sup>

"The king 's a beggar, now the play is done."<sup>7</sup>

*Twelfth Night.*

"It shall become thee well to act my woes."<sup>8</sup>

"*Viola.* I would be loath to cast away my speech, for besides that it is excellently well penned, I have taken great pains to con it. . . .

*Olivia.* Whence came you, sir ?

*Viola.* I can say little more than I have studied, and that question 's out of my part. . . .

*Olivia.* Are you a comedian ?

*Viola.* No, my profound heart : and yet, by the very fangs of malice I swear, I am not that I play."<sup>9</sup>

"Alas, I took great pains to study it, and 't is poetical."<sup>10</sup>

<sup>1</sup> I, i, 242.

<sup>3</sup> II, i, 255.

<sup>5</sup> II, iii, 23.

<sup>7</sup> Epil. 1.

<sup>9</sup> I, v, 162.

<sup>2</sup> II, i, 54.

<sup>4</sup> II, i, 91.

<sup>6</sup> IV, iii, 248.

<sup>8</sup> I, iv, 25.

<sup>10</sup> I, v, 182.

"You are now out of your text: but we will draw the curtain and show you the picture."<sup>1</sup>

"This fellow is wise enough to play the fool;  
And to do that well craves a kind of wit:  
He must observe their mood on whom he jests,  
The quality of persons, and the time,  
And, like the haggard, check at every feather  
That comes before his eye. This is a practice  
As full of labor as a wise man's art:  
For folly that he wisely shows is fit."<sup>2</sup>

"If this were played upon a stage now, I could condemn it as an improbable fiction."<sup>3</sup>

"They have here propertied me."<sup>4</sup>

"But that's all one, our play is done,  
And we'll strive to please you every day."<sup>5</sup>

*The Winter's Tale.*

"Go, play, boy, play: thy mother plays, and I  
Play too; but so disgraced a part, whose issue  
Will hiss me to my grave."<sup>6</sup>

"Which is more  
Than history can pattern, though devised  
And played to take spectators."<sup>7</sup>

"Methinks I play as I have seen them do  
In Whitsun pastorals."<sup>8</sup>

"To have you royally appointed as if  
The scene you play were mine."<sup>9</sup>

"I see the play so lies  
That I must bear a part."<sup>10</sup>

<sup>1</sup> I, v, 217.

<sup>2</sup> III, iv, 121.

<sup>3</sup> Song, at end, V, i, 394.

<sup>4</sup> III, ii, 33.

<sup>5</sup> IV, iv, 584.

<sup>6</sup> III, i, 57.

<sup>7</sup> IV, ii, 88.

<sup>8</sup> I, ii, 187.

<sup>9</sup> IV, iv, 133.

<sup>10</sup> IV, iv, 645.

"And on this stage,  
Where we offenders now, appear soul-vexed." <sup>1</sup>

"There was speech in their dumbness, language in  
their very gesture." <sup>2</sup>

"The dignity of this act was worth the audience of kings  
and princes; for by such was it acted." <sup>3</sup>

"Lead us from hence, where we may leisurely  
Each one demand, and answer to his part  
Performed in this wide gap of time." <sup>4</sup>

*King John.*

"And stand securely on their battlements,  
As in a theatre, whence they gape and point  
At your industrious scenes of life and death." <sup>5</sup>

*King Richard II.*

"A woeful pageant have we here beheld." <sup>6</sup>

"As in a theatre, the eyes of men,  
After a well-graced actor leaves the stage,  
Are idly bent on him that enters next,  
Thinking his prattle to be tedious;  
Even so, or with much more contempt, men's eyes  
Did scowl on gentle Richard." <sup>7</sup>

"Our scene is altered from a serious thing,  
And now changed to 'The Beggar and the King.'" <sup>8</sup>

"Thus play I in one person many people,  
And none contented: sometimes am I king;  
Then treasons make me wish myself a beggar,  
And so I am." <sup>9</sup>

<sup>1</sup> V, i, 58.

<sup>2</sup> V, ii, 77.

<sup>3</sup> II, i, 374.

<sup>4</sup> V, ii, 23.

<sup>5</sup> V, v, 31.

<sup>6</sup> V, ii, 13.

<sup>7</sup> V, iii, 152.

<sup>8</sup> IV, i, 321.

<sup>9</sup> V, iii, 79.

*The First Part of King Henry IV.*

"I'll play Percy, and that damned brawn shall play Dame Mortimer his wife."<sup>1</sup>

*Falst.* What, shall we be merry? Shall we have a play extempore?

*Prince.* Content; and the argument shall be thy running away."<sup>2</sup>

Then a little comedy is played between Prince Henry and Falstaff, only portions of which are copied here.

*Prince.* Do thou stand for my father, and examine me upon the particulars of my life.

*Falst.* Shall I? Content: this chair shall be my state, this dagger my sceptre, and this cushion my crown.

*Prince.* Thy state is taken for a joined-stool, thy golden sceptre for a leaden dagger, and thy precious rich crown for a pitiful bald crown!

*Falst.* . . . Give me a cup of sack to make my eyes look red, that it may be thought I have wept; for I must speak in passion, and I will do it in King Cambyse's vein.

. . . . .  
*Host.* O, the father, how he holds his countenance!

. . . . .  
*Host.* O Jesu, he doth it as like one of these harlotry players as ever I see."<sup>3</sup>

*Prince.* Do thou stand for me, and I'll play my father."<sup>4</sup>

*Falst.* Play out the play: I have much to say in the behalf of that Falstaff."<sup>5</sup>

"Slaves as ragged as Lazarus in the painted cloth."<sup>6</sup>

<sup>1</sup> II, iv, 105.

<sup>3</sup> II, iv, 385-385.

<sup>6</sup> II, iv, 467.

<sup>2</sup> II, iv, 270.

<sup>4</sup> II, iv, 418.

<sup>5</sup> IV, ii, 24.



*The First Part of King Henry VI.*

"Pucelle hath bravely played her part in this." <sup>1</sup>

*The Second Part of King Henry VI.*

"And, being a woman, I will not be slack  
To play my part in Fortune's pageant." <sup>2</sup>

"But mine is made the prologue to their play;  
For thousands more, that yet subject no peril,  
Will not conclude their plotted tragedy." <sup>3</sup>

"Who in contempt shall hiss at thee again." <sup>4</sup>

*The Third Part of King Henry VI.*

"As if the tragedy  
Were played in jest by counterfeiting actors." <sup>5</sup>

"What scene of death hath Roscius now to act?" <sup>6</sup>

*King Richard III.*

"*Duch.* What means this scene of rude impatience?  
*Q. Eliz.* To make an act of tragic violence." <sup>7</sup>

"Had not you come upon your cue, my lord,  
William Lord Hastings had pronounced your part, —  
I mean, your voice, — for crowning of the King." <sup>8</sup>

"Tut, I can counterfeit the deep tragedian,  
Speak and look back, and pry on every side,  
Tremble and start at wagging of a straw,  
Intending deep suspicion: ghastly looks  
Are at my service, like enforced smiles." <sup>9</sup>

"Play the maid's part." <sup>10</sup>

<sup>1</sup> III, iii, 88.

<sup>2</sup> III, i, 151.

<sup>3</sup> II, iii, 27.

<sup>7</sup> II, ii, 38.

<sup>9</sup> III, v, 5.

<sup>2</sup> I, ii, 68.

<sup>4</sup> IV, i, 78.

<sup>6</sup> V, vi, 10.

<sup>8</sup> III, iv, 27.

<sup>10</sup> III, vii, 51.

"And the beholders of this tragic play."<sup>1</sup>

"The flattering index of a direful pageant."<sup>2</sup>

"A queen in jest, only to fill the scene."<sup>3</sup>

*King Henry VIII.*

"I know but of a single part in aught  
Pertains to the state."<sup>4</sup>

"I would have played  
The part my father meant to act."<sup>5</sup>

"These are the youths that thunder at a play-house and fight for bitten apples; that no audience, but the tribulation of Tower-hill, or the limbs of Limehouse, their dear brothers, are able to endure."<sup>6</sup>

"'T is ten to one this play can never please  
All that are here: some come to take their ease,  
And sleep an act or two; but those, we fear,  
We have frightened with our trumpets."<sup>7</sup>

*Troilus and Cressida.*

"Of author's pen or actor's voice."<sup>8</sup>

"*Ulyss.* [speaking of Patroclus]. Sometime, great Agamemnon,

Thy topless deputation he puts on;  
And, like a strutting player, whose conceit  
Lies in his hamstring, and doth think it rich  
To hear the wooden dialogue and sound  
'Twixt his stretched footing and the scaffoldage,  
Such to-be-pitied and o'er-wrested seeming  
He acts thy greatness in: and when he speaks,  
'T is like a chime a-mending; . . .

<sup>1</sup> IV, iv, 68.

<sup>2</sup> IV, iv, 91.

<sup>3</sup> I, ii, 194.

<sup>4</sup> Epil. 1.

<sup>5</sup> IV, iv, 85.

<sup>6</sup> I, ii, 41.

<sup>7</sup> V, iv, 57.

<sup>8</sup> Prol. 24.

At this fusty stuff,  
 The large Achilles, on his pressed bed lolling,  
 From his deep chest laughs out a loud applause;  
 Cries, 'Excellent! 't is Agamemnon just.  
 Now play me Nestor; hem, and stroke thy beard,  
 As he being dressed to some oration.'"<sup>1</sup>

"And how his silence drinks up this applause.""<sup>2</sup>

"In all Cupid's pageant there is presented no monster.""<sup>3</sup>

"Set this in your painted cloths.""<sup>4</sup>

*Coriolanus.*

"In that day's feats,  
 When he might act the woman in the scene,  
 He proved best man i' the field.""<sup>5</sup>

"It is a part  
 That I shall blush in acting.""<sup>6</sup>

"I am half through:  
 The one part suffered, the other will I do.""<sup>7</sup>

"*Coriol.* You have put me now to such a part, which  
 never  
 I shall discharge to the life.

*Com.* Come, come, we'll prompt you.""<sup>8</sup>

"Perform a part  
 Thou hast not done before.""<sup>9</sup>

"You take my part from me, sir; I have the most  
 cause to be glad of yours.""<sup>10</sup>

"Like a dull actor now  
 I have forgot my part and I am out.""<sup>11</sup>

<sup>1</sup> I, iii, 151.

<sup>2</sup> III, ii, 71.

<sup>3</sup> II, ii, 93.

<sup>4</sup> II, iii, 120.

<sup>5</sup> III, ii, 109.

<sup>6</sup> V, iii, 40.

<sup>7</sup> II, iii, 196.

<sup>8</sup> V, x, 45.

<sup>9</sup> II, ii, 142.

<sup>10</sup> III, ii, 105.

<sup>11</sup> IV, iii, 46.

*Titus Andronicus.*

"And in dumb shows  
Pass the remainder of our hateful days." <sup>1</sup>

"And prompt me, that my tongue may utter forth  
The venomous malice of my swelling heart." <sup>2</sup>

*Romeo and Juliet.*

"Is now the two hours' traffic of our stage." <sup>3</sup>

Jonson, in *Bartholomew Fair*, Induction, makes the spectators agree to remain in their places with patience for two hours and a half, and somewhat more.

"*Rom.* What, shall this speech be spoke for our excuse ?

Or shall we on without apology ?

*Ben.* The date is out of such prolixity :  
We'll have no Cupid hoodwinked with a scarf,  
Bearing a Tartar's painted bow of lath,  
Scaring the ladies like a crow-keeper ;  
Nor no without-book prologue, faintly spoke  
After the prompter, for our entrance." <sup>4</sup>

"What should she do here ?

My dismal scene I needs must act alone." <sup>5</sup>

*Timon of Athens.*

"*Paint.* I will promise him an excellent piece.

*Poet.* I must serve him so too. . . .

*Paint.* . . . Promising is the very air o' the time : it opens the eyes of expectation ; performance is ever the duller for his act.

. . . . .

<sup>1</sup> III, i, 131.

<sup>2</sup> V, iii, 12.

<sup>3</sup> Prol. 12.

<sup>4</sup> I, iv, 1.

<sup>5</sup> IV, iii, 18.



" 'T is the age of childhood  
That fears a painted devil." <sup>1</sup>

"Thou seest, the heavens, as troubled with man's act,  
Threaten his bloody stage." <sup>2</sup>

"That of an hour's age doth hiss the speaker." <sup>3</sup>

"I would applaud thee to the very echo,  
That should applaud again." <sup>4</sup>

"Life's but a walking shadow, a poor player  
That struts and frets his hour upon the stage  
And then is heard no more." <sup>5</sup>

"Why should I play the Roman fool, and die  
On mine own sword?" <sup>6</sup>

*Hamlet.*

In this play, as in some others, there is so much which relates to actors and the theatre that selections must suffice. Some of the language is quite technical.

"These indeed seem,  
For they are actions that a man might play :  
But I have that within which passeth show." <sup>7</sup>

"How chances it they travel? their residence, both in reputation and profit, was better both ways." <sup>8</sup>

"There is, sir, an eyrie of children, little eyases, that cry out on the top of question, and are most tyrannically clapped for 't; these are now the fashion." <sup>9</sup>

<sup>1</sup> II, ii, 54.

<sup>2</sup> IV, iii, 175.

<sup>3</sup> V, v, 24.

<sup>4</sup> I, ii, 83.

<sup>5</sup> II, ii, 335.

<sup>6</sup> II, iv, 5.

<sup>7</sup> V, iii, 53.

<sup>8</sup> V, viii, 1.

<sup>9</sup> II, ii, 323.

This refers to the children actors, who for a time had much success.

"Will they pursue the quality no longer than they can sing? Will they not say afterwards, if they should grow themselves to common players, — as it is most like, if their means are no better, — their writers do them wrong, to make them exclaim against their own succession?"<sup>1</sup>

"The best actors in the world, either for tragedy, comedy, history, pastoral, pastoral-comical, historical-pastoral, tragical-historical, tragical-comical-historical-pastoral, scene individable, or poem unlimited : Seneca cannot be too heavy, nor Plautus too light."<sup>2</sup>

Hamlet's conversation with the players is strikingly significant, but is omitted here on account of its length.

"Good my lord, will you see the players well bestowed? Do you hear, let them be well used, for they are the abstract and brief chronicles of the time : after your death you were better have a bad epitaph than their ill report while you live."<sup>3</sup>

"You could, for a need, study a speech of some dozen or sixteen lines which I would set down and insert in 't, could you not?"<sup>3</sup>

"Is it not monstrous that this player here,  
But in a fiction, in a dream of passion,  
Could force his soul so to his own conceit  
That from her working all his visage wann'd ;  
Tears in his eyes, distraction in 's aspect,  
A broken voice, and his whole function suiting  
With forms to his conceit? and all for nothing!  
For Hecuba!

<sup>1</sup> II, ii, 342.

<sup>2</sup> II, ii, 392.

<sup>3</sup> II, ii, 516.

<sup>4</sup> II, ii, 534.

What's Hecuba to him, or he to Hecuba,  
That he should weep for her? What would he do,  
Had he the motive and the cue for passion  
That I have? He would drown the stage with tears,  
And cleave the general ear with horrid speech."<sup>1</sup>

Hamlet's speech to the players, and the account of the mimic play, with remarks as it goes on, are all omitted here.

"Belike this show imports the argument of the play."<sup>2</sup>

"*Ham.* Would not this, sir, and a forest of feathers — if the rest of my fortunes turn Turk with me — with two Provincial roses on my razed shoes, get me a fellowship in a cry of players, sir?

*Hor.* Half a share.

*Ham.* A whole one, I."<sup>3</sup>

This refers to the custom of paying players, not by fixed sums, but in proportion to the receipts.<sup>4</sup>

"*Ham.* I'll lug the guts into the neighbor room."<sup>5</sup>

Hamlet is made to carry out the body of Polonius; Falstaff to carry off the body of Henry Percy; and other instances are cited by Furness, showing the necessity which then existed for an actor to do things which now are done by attendants.<sup>6</sup>

"Each toy seems prologue to some great amiss."<sup>7</sup>

"Nay, an thou 'lt mouth,

I'll rant as well as thou."<sup>8</sup>

<sup>1</sup> II, ii, 544.

<sup>3</sup> III, ii, 269.

<sup>5</sup> III, iv, 212.

<sup>7</sup> IV, v, 18.

<sup>2</sup> III, ii, 135.

<sup>4</sup> Furness, 1 *Hamlet*, 260, 261 n.

<sup>6</sup> Staunton, cited in Furness, 1 *Hamlet*, 309 n.

<sup>8</sup> V, i, 277.

"Or I could make a prologue to my brains,  
They had begun the play."<sup>1</sup>

A personal allusion may be added here which has some slight significance. The Queen says of Hamlet, "He's fat and scant of breath."<sup>2</sup> Richard Burbage was the original Hamlet, and, according to Collier, as quoted by Furness and also by Rolfe, these words were inserted because he was corpulent. Shakespeare might well do this; but would Bacon have done it? Indeed, it is peculiarly difficult to imagine that the theatrical talk in Hamlet could have come from Bacon. One needs to read it all, with this in mind, to appreciate it fully.

*King Lear.*

"And pat he comes like the catastrophe of the old comedy; my cue is villanous melancholy, with a sigh like Tom o' Bedlam."<sup>3</sup>

*Othello.*

"For when my outward action doth demonstrate  
The native act and figure of my heart  
In compliment extern, 't is not long after  
But I will wear my heart upon my sleeve  
For daws to peck at: I am not what I am."<sup>4</sup>

"Were it my cue to fight, I should have known it  
Without a prompter."<sup>5</sup>

"'T is evermore the prologue to his sleep."<sup>6</sup>

<sup>1</sup> V, ii, 30.

<sup>3</sup> I, ii, 128.

<sup>5</sup> I, ii, 83.

<sup>2</sup> V, ii, 279.

<sup>4</sup> I, i, 62.

<sup>6</sup> II, iii, 121.

*Antony and Cleopatra.*

"Play one scene

Of excellent dissembling, and let it look

Like perfect honor." <sup>1</sup>

"*Cleop.* Come, you'll play with me, sir?

*Mar.* As well as I can, madam.

*Cleop.* And when good will is showed, though 't come  
too short,

The actor may plead pardon." <sup>2</sup>

"Staged to the show

Against a sworder." <sup>3</sup>

"*Cleop.* The quick comedians

Extemporally will stage us and present

Our Alexandrian revels; Antony

Shall be brought drunken forth, and I shall see

Some squeaking Cleopatra boy my greatness," <sup>4</sup> etc.

See a similar prediction in Julius Cæsar.

*Cymbeline.*

"When on my three-foot stool I sit and tell

The warlike feats I have done . . .

. . . he sweats,

Strains his young nerves, and puts himself in posture

That acts my words." <sup>5</sup>

"Shall's have a play of this? Thou scornful page

There lie thy part." <sup>6</sup> [*Striking her.*

*Pericles.*

"Our fast-growing scene." <sup>7</sup>

<sup>1</sup> I, iii, 78.

<sup>3</sup> III, xiii, 30.

<sup>5</sup> III, iii, 89.

<sup>7</sup> IV, Gow. 6.

<sup>2</sup> II, v, 6.

<sup>4</sup> V, ii, 215.

<sup>6</sup> V, v, 228.

"We commit no crime  
To use one language in each several clime  
Where our scenes seem to live." <sup>1</sup>

"While our scene must play  
His daughter's woe." <sup>2</sup>

*Venus and Adonis.*

"And all this dumb play had his acts made plain  
With tears, which chorus-like her eyes did rain." <sup>3</sup>

*Lucrece.*

"My part is youth, and beats these from the stage." <sup>4</sup>

"Black stage for tragedies and murders fell." <sup>5</sup>

*Sonnets.*

"That this huge stage presenteth nought but shows." <sup>6</sup>

"As an unperfect actor on the stage,  
Who with his fear is put beside his part." <sup>7</sup>

*The Phoenix and Turtle.*

"As chorus to their tragic scene." <sup>8</sup>

To sum up briefly the contents of the last six chapters, it appears that the author of the plays took little care for their preservation, while Bacon took the greatest pains to preserve his acknowledged writings, even when their publication must be postponed; that he was familiar with English poetry, songs and plays, both pub-

<sup>1</sup> IV, iv, 5.

<sup>2</sup> Line 359.

<sup>3</sup> Line 766.

<sup>4</sup> XXXIII, 1.

<sup>5</sup> IV, iv, 48.

<sup>6</sup> Line 278.

<sup>7</sup> XV, 3.

<sup>8</sup> Line 52.

lished and unpublished, some of the latter having no existence, probably, outside of the theatres, while there is nothing to show that Bacon had any knowledge of or taste for such writings, or that he could have had access to the unpublished plays, and in fact it seems probable that he despised them all; that Shakespeare was known and recognized as a poet from poems of conspicuous merit and undoubted authenticity, while Bacon produced no poem worthy of notice, and with a single exception was never spoken of by his contemporaries as a writer of poetry; that the author, moreover, shows an acquaintance with Warwickshire, the home of Shakespeare, and used names and language relating to habits, customs, sports, there prevalent, and to occupations with which Shakespeare was familiar, and also used provincialisms there current, while Bacon is not known ever to have visited that part of England; that he was also steeped in knowledge of rural life, and of the customs and habitual modes of speech of the lower classes, which Bacon would naturally have less acquaintance with; that the plays abound in anachronisms, historical errors, and obscurities and other peculiarities in the text, which Bacon was less likely than Shakespeare to fall into; and that the author was familiar with, and was full to repletion of allusions to, theatrical matters, and the habits and technical

language of actors, which formed the daily life and speech of Shakespeare, while Bacon must have been less conversant if not entirely unacquainted with them. All of these circumstances tend in a greater or less degree to negative the theory of Baconian authorship; and the combined or cumulative force of so many detailed facts, all pointing in the same direction, is certainly a consideration of great weight.

## CHAPTER XIV

### COLLABORATION. — ALTERATIONS OF PLAYS. — THEATRICAL QUARRELS

THE opinion has generally prevailed that, especially in the earlier part of his life in London, Shakespeare not only touched up and revamped old plays,<sup>1</sup> but that in writing new plays he sometimes worked in conjunction with other dramatists. Fleay thinks that at the outset he worked as an assistant to some experienced writer, probably Robert Wilson or Peele.<sup>2</sup> Collaboration amongst playwrights was common at that time. For example, Jonson wrote with Chapman, Marston, Dekker, Chettle, and Fletcher; Fletcher wrote also with Beaumont, Massinger, Shirley, and William Rowley; Massinger wrote also with Beaumont, Dekker, Field, and Middleton; Chapman wrote also with Marston and Shirley; Middleton wrote also with Dekker and William Rowley; Marlowe wrote with Nash and Day; Greene wrote with Lodge; Webster wrote with Ford, Drayton, Dekker, and Marston; Dekker wrote also with Chettle, Drayton, Haughton,

<sup>1</sup> See ante, p. 190.

<sup>2</sup> *Life and Work of Shakespeare*, 12, 103.

Wilson, Day, Heywood, and William Rowley; Day wrote also with Chettle, Haughton, Hathway, Wentworth Smith, William Rowley, and Wilkins; and Heywood, as he himself declares, had a hand, or at least a finger, in many plays not written entirely by himself. These may not have been models for Shakespeare in the full tide of his career, and yet these instances serve to show that there is nothing antecedently improbable in the idea that he also sometimes worked with others. The extent to which this was done cannot now be defined; nor can it be ascertained how far he may have received incidental assistance in the use of legal or other technical terms. Much critical ingenuity has been shown in the attempt to point out, in certain plays, portions which must have been written by Shakespeare, and other portions which must have been written by somebody else. Of the plays usually attributed to Shakespeare, the three parts of King Henry VI, Titus Andronicus, Timon of Athens, Pericles, and King Henry VIII are thought by some writers to have been composed in good part by others than Shakespeare; and in addition to these, Ingleby says that *The Merry Wives of Windsor*, *The Taming of the Shrew*, *King John*, *King Henry V*, *Romeo and Juliet*, and *Hamlet* are not free from suspicion that another hand contributed to them.<sup>1</sup> The Two

<sup>1</sup> Shakespeare, *The Man*, etc., 40.

Noble Kinsmen, published in 1634, bore the names of Fletcher and Shakespeare as authors. Certain other plays have been attributed to Shakespeare in which it is now usually thought that he had little or no share.<sup>1</sup> But it is now confidently maintained that King Henry VIII, one of the latest plays in point of time, was written in part by Fletcher.<sup>2</sup> Ward cites Tennyson, Spedding, Hickson, Fleay, Furnivall, Dowden, Ingram, W. B. Donne, and Browning as holding this opinion; and he says himself, "The assumption of a coöperation on Fletcher's part in Henry VIII, as we possess it, may be regarded as removed beyond reasonable doubt."<sup>3</sup> It is not too much to say that in the general view of the critics<sup>4</sup> Shakespeare to some extent worked in various plays in coöperation with others, or rendered aid to them, or received aid from them. Richard Simpson maintains that he had a hand in several plays which are not included in the Folio edition, that he wrote for all the theatrical companies during the first part of his career, and was so active that in 1592 Robert Greene styled him a Johannes Factotum; and in fact that his work was so much in re-

<sup>1</sup> Ante, p. 138; post, pp. 250, 251.

<sup>2</sup> Boas, 545-548; Ingleby, Shakespeare, *The Man*, etc., 49; Brandes, 608-614.

<sup>3</sup> Vol. 2, pp. 205, 207.

<sup>4</sup> See Boas, 134-137; Brandes, 2; Furnivall, *Introd. to Gervinus*, xxvii, seq.; Lee, 60, 242.

quest that Greene determined to abandon play-writing, and urged his companions to do the same, and said that he knew of two others who had come to the same conclusion. Simpson thinks that plays wholly or partly from Shakespeare's pen must have been in the possession of many of the actors and companies.<sup>1</sup> Ward discusses the authorship of the doubtful plays at length.<sup>2</sup>

If such collaboration is established on the part of the writer of any of the Shakespearian plays, it makes against the Baconian theory of authorship. It is not likely that Bacon would unite with any of the ordinary playwrights in the production of plays. This is so obvious that Holmes, with his usual frankness, concedes that it would be idle to imagine that he ever wrote a play in conjunction with Marlowe, Greene, or Peele.<sup>3</sup> Assume that any particular play was the work of two or more hands, as, for example, that King Henry VIII was composed in large part but not wholly by Fletcher, and the difficulty of supposing that Bacon was joint author, that he worked concurrently with Fletcher, or completed Fletcher's unfinished work, or that Fletcher completed Bacon's unfinished work, is at once apparent. But the difficulty is much increased if it is made to appear that several different dramatists

<sup>1</sup> 1 School of Shakespeare, viii, ix, xx, xxi.

<sup>2</sup> Vol. 2, pp. 209-245.

<sup>3</sup> Vol. 1, p. 38.

took part in the writing of any of the Shakespearian plays, or that several different plays were the work of more than one author.

The alterations which from time to time were made in certain of the plays also tend to negative the supposition of Bacon's authorship. These alterations consisted of additions, excisions, and partial rewriting of scenes. Some of the plays which have been thought to have been so altered are *Romeo and Juliet*, *The Merry Wives of Windsor*, *Hamlet*, *Love's Labor's Lost*, *King Richard II*, *The Two Gentlemen of Verona*, the *First and Second Parts of King Henry IV*, *Much Ado about Nothing*, *Julius Cæsar*, and *Troilus and Cressida*. These alterations were sometimes made with reference to the production of the plays on special occasions, sometimes for their general improvement as acting plays, and sometimes for other reasons. There can be little doubt that they were in some instances the result of previous discussion with actors or managers. It is not possible now distinctly to trace these alterations in those plays which were not printed during Shakespeare's life. But much interesting labor has been and may be spent in comparing the successive editions of the plays which were so printed with the copies as they are found in the Folio edition. In view of the circumstances under which the

alterations were made, it is difficult to suppose that they came from the hand of Bacon. They must have been made, it would seem, by one who was in habitual and easy communication with the theatre. Details and speculations respecting them may be found in Fleay's *History of the Life and Work of Shakespeare*,<sup>1</sup> and in his *Biographical Chronicle of the English Drama*.<sup>2</sup>

From 1599 to 1602 or thereabouts there was a controversy between the rival theatres in which several dramatists took Theatrical quarrels. part. According to Fleay, Jonson and Chapman were on one side, and Shakespeare, Marston, and Dekker on the other.<sup>3</sup> We know from Drummond's *Notes* that Jonson's *Poetaster* was written in ridicule of Marston, and it is idle to suggest that it was written in ridicule of Shakespeare. How far Shakespeare entered into this quarrel, if at all, is not clear, and it has been a question of much discussion. Some writers think that in the plays attributed to him they detect traces of his participation in it. It seems probable, however, that he was not an active partisan. There may at times have been differences between him and Jonson,<sup>4</sup> but Elze<sup>5</sup> thinks they never degenerated into personal

<sup>1</sup> Pages 128, 130, 133, 149, 150, 181-252.

<sup>2</sup> Vol. 1, pp. 179-194.

<sup>3</sup> *Life and Work of Shakespeare*, 138.

<sup>4</sup> Boas, 122.

<sup>5</sup> Page 159.

squabbles. Fleay seems to entertain the opinion, which, so far as I can discover, is unsupported by the expressed opinion of any other writer, that there was no personal intercourse between them after 1603.<sup>1</sup> According to Elze, Nash and Robert Greene were the only opponents of Shakespeare who are now known to have directed personal attacks against him.<sup>2</sup> Greene died in 1592, and Nash in 1601. Elze says: "Nash, whom Lodge in a detailed criticism designates as a veritable English Aretino, was famous no less for his acuteness, his knowledge, and his ready pen, than for his envious, spiteful, and abusive nature; personal polemics, the coarser the better, were the subjects he specially delighted in."<sup>3</sup> Fleay thinks Bottom, in *Midsummer Night's Dream*, was intended for Robert Greene,<sup>4</sup> and that Dekker was referred to in the line of *Troilus and Cressida*, "When rank Thersites opes his mastick jaws."<sup>5</sup> But this seems open to doubt, if Shakespeare was a partisan with Dekker in the controversy, and others think this line refers to *Histriomastix*, not *Satiromastix*.

Without going further into the details of the theatrical quarrel, two obvious suggestions may be made. It is not likely that Bacon would

<sup>1</sup> *Life and Work of Shakespeare*, 51, 81.

<sup>2</sup> Page 141.

<sup>3</sup> Page 141.

<sup>4</sup> *Life and Work of Shakespeare*, 184.

<sup>5</sup> *Ib.*, 221.

have taken part in the controversy. His way of life was apart from the theatre, and actors and dramatists were not his associates or rivals. So far as the plays show participation in the quarrel, so far is the Baconian theory of authorship weakened. And on the other hand, if playwrights or actors who were in active rivalry with Shakespeare knew, or believed, or suspected that he was not in fact the author of the plays and poems which were put forth in his name, some of them, at least, had a good reason for telling it to the world in plain terms. Jonson expressed himself freely to Drummond in 1619 as to many of the dramatists and poets of the day. One, he said, was base, another was a fool, and several were rogues. Of Shakespeare he said nothing worse than mild bits of literary criticism; nothing inconsistent with entire respect and regard. What is recorded of his talk concerning Shakespeare is as follows: that "Shakespeare wanted art;"<sup>1</sup> and again, later, that "Shakespeare in a play brought in a number of men saying that they had suffered shipwreck in Bohemia, where there is no sea near by over 100 miles."<sup>2</sup> Greene and Nash were abusive, and charged him with appropriating other men's writings; but even they did not go beyond a charge of plagiarism. None of Shakespeare's rivals, so far as is known, intimated that he had

<sup>1</sup> Drummond's Notes, 4.

<sup>2</sup> *Ib.*, 16.

no hand in the production of the plays and poems, that he was a mere *simulacrum*, that he was unable to write, or that he was a dolt. Whether Shakespeare was or was not involved as a partisan in the particular theatrical quarrel which raged from 1599 to 1602, he was not exempt from a certain amount of professional jealousy and rivalry as a playwright, so that there was motive enough to expose the imposture of his pretended authorship if such a fact was known or suspected.

A recent discussion of Shakespeare's relations to the war of the theatres, or poetomachia, as it has been called, may be found in Wyndham's edition of *The Poems of Shakespeare*, Introduction, pages lv-lxx, American edition.

These three subjects, collaboration with other writers, alterations of plays, and participation in the theatrical quarrels, though not here dwelt upon at length, will well repay a careful examination by those who seek light upon the theory of the Baconian authorship from the circumstances attending the production of the plays.

## CHAPTER XV

### EXPRESSED OPINIONS OF CONTEMPORARIES

THE opinion that Shakespeare was the author of the Plays as well as of the principal Poems was held by all of his contemporaries, so far as known. The most diligent search has been made for indications that Bacon claimed to be the author, or was supposed to be so by persons who were in the secret. This search has been in vain. The chief thing which has been deemed by the Baconians to be worth mentioning is the letter to Bacon, already referred to, of Tobie Matthew, who said in a P. S.: "The most prodigious wit that ever I knew of my nation, and of this side of the sea, is of your Lordship's name, though he be known by another."<sup>1</sup> This letter seems to have been written from some place on the Continent of Europe, perhaps in Spain. Holmes thinks the reference may have been to Bacon himself. This, however, is mere conjecture. Bacon was not then "of this side of the sea," i. e., on the Continent. A discussion of possible explanations of this allusion may be found in *Shakespeariana* for 1891. A some-

Quoted by Holmes, p. 175.

what exaggerated importance has been given to it by Holmes. It seems unnecessary to look beyond the simple suggestion of Lee, that probably the prodigious wit was some one of the name of Bacon who was travelling on the continent under another name, — a thing not then uncommon.<sup>1</sup>

With all of Bacon's revision of his writings and care for them, no hint by him of the plays has been found; no confidential communication to anybody, in which he spoke of them; no memorandum or reference to them in his will or elsewhere; no submission of them to the critical judgment of future ages; nothing of any kind to show that he was the writer or even a reader of them, unless this is to be inferred from certain so-called parallel passages.

On the other hand, Shakespeare produced the plays as his own; they were acted as his in the theatres with which he was connected, and about half of them were published in his lifetime with his name; some of them were altered from time to time. Apparently he took the pay for them, and became a man of some wealth from his receipts as actor, manager, and author. He was recognized and accepted as the author by everybody. His credit as a playwright was such that plays as well as poems in which he is now supposed to have had no hand, or at least not the

<sup>1</sup> Page 371.

sole hand, were attributed to him.<sup>1</sup> Some references of contemporaries to Shakespeare as the author will be given.

In 3 *King Henry VI*, York says to Queen Margaret : —

“ O tiger’s heart, wrapped in a woman’s hide,” —

a vivid imputation that she was the embodiment of cruelty. Robert Greene’s *Groatsworth of Wit*, published in 1592, concludes with an address “to those Gentlemen, his quondam acquaintance, that spend their wits in making plays,” three of whom were specially designated, though not by name, in which he says : —

“ Is it not strange that I, to whom they all have been beholding, is it not like that you, to whom they all have been beholding — shall, were ye in that case that I am now, be both at once of them forsaken? Yes, trust them not ; for there is an upstart crow, beautified with our feathers, that, with his tiger’s heart wrapped in a player’s hide, supposes he is as well able to bombast out a blank verse as the best of you ; and being an absolute *Johannes Factotum*, is in his own conceit the only Shakescene in a country.”

There is no doubt that this sarcasm referred to Shakespeare, but some have thought that it referred to him only as an actor, and not as a writer. This, however, seems improbable. Greene was addressing playwrights, and says the upstart crow supposes he is as well able to bombast out a blank verse as the best of them. This

<sup>1</sup> For a list of these, see Elze, 359–363.

apparently refers to writing plays, not to acting them. The phrase "beautified with our feathers," taken in connection with the plain reference to the line in 3 King Henry VI, has led most of the critics to think that a reference to him as a writer, i. e., as a plagiarist, was intended. The phrase "absolute Johannes Factotum" confirms this opinion, as it would hardly have been used in that connection with reference to a mere actor. Robert Greene, born 1560, died 1592, was a writer of plays, poems, fictions, and tracts. Towards Shakespeare he was hostile and vituperative, and little likely to suppress anything derogatory. He left six plays which are now extant, besides what he wrote in conjunction with Lodge. In Drake's opinion, the First and Second Parts of King Henry VI were founded on earlier plays by Marlowe, or perhaps by Marlowe, Peele, and Greene.<sup>1</sup> The Groatworth of Wit was entered by Henry Chettle on the Stationers' Register September 20, 1592, which was after Greene's death. Chettle was himself a dramatic writer and a poet. He was concerned in the production of thirty-eight plays,<sup>2</sup> of which only four have come to us. In December, 1592, Chettle published a pamphlet called *Kind Hart's Dream*, with an address "to the Gentlemen Readers," in which he said:—

<sup>1</sup> Drake, 485.

<sup>2</sup> Allibone's Dictionary of Authors.

"About three months since died Mr. Robert Greene, leaving many papers in sundry booksellers' hands, among other his *Groatsworth of Wit*, in which a letter, written to divers playmakers, is offensively by one or two of them taken; and because on the dead they cannot be avenged, they wilfully forge in their conceits a living author; and after tossing it to and fro, no remedy but it must light on me. . . . With neither of them that take offence was I acquainted, and with one of them I care not if I never be. The other, whom at that time I did not so much spare as since I wish I had, for that, as I have moderated the heat of living writers, and might have used my own discretion (especially in such a case) the author being dead — that I did not, I am as sorry as if the original fault had been my fault, because myself have seen his demeanor no less civil than he excellent in the quality he professes; besides, divers of worship have reported his uprightness of dealing, which argues his honesty, and his facetious grace in writing, that approves his art."

The two writers thus referred to have been supposed to be Marlowe and Shakespeare, and it would seem, from the warmth and directness of his commendation, that Chettle had become personally acquainted with the latter between the two publications. This is the more probable since Chettle was both a playwright and an actor. It has recently been suggested that Chettle did not refer to Shakespeare at all, but to two of those to whom Greene's words were addressed.<sup>1</sup> Chettle's sentences are disjointed, and not easily to be held together. The suggestion is new that the playmakers who took

<sup>1</sup> Reed, *Bacon v. Shakespeare*, 150-155.

offense were necessarily included amongst the three whom Greene had addressed. Holmes, however, assumes that Shakespeare was meant.<sup>1</sup> No other writer has been named to whom Chettle's description so well applies. It has been supposed that Greene's address was to Marlowe, Lodge, and Peele. If Chettle did not mean Shakespeare, who was the object of Greene's special attack, the person referred to must have been one of the three directly addressed by Greene. Until some other plausible suggestion is made, we may continue to assume that Chettle was describing Shakespeare. Richard Simpson's exposition to this effect, in *Shakspeare Allusion Books*, Part 1, p. xli et seq., appears to be satisfactory. Greene certainly referred to Shakespeare as an absolute *Johannes Factotum*, a man who was turning his hand to everything.

In 1598 Meres, in *Palladis Tamia*, speaks of several of the plays as follows:—

“As Plautus and Seneca are accounted the best for comedy and tragedy among the Latins, so Shakespeare among the English is the most excellent in both kinds for the stage. For comedy, witness his *Gentlemen of Verona*, his *Errors*, his *Love Labor's Lost*, his *Love Labor's Won*, his *Midsummer Night's Dream*, and his *Merchant of Venice*; for tragedy, his *Richard the 2*, *Richard the 3*, *Henry the 4*, *King John*, *Titus Andronicus*, and his *Romeo and Juliet*. . . . The Muses would speak with Shakespeare's fine-fil'd phrase, if they would speak English.”

<sup>1</sup> Page 38.

In 1598 several of the above-mentioned plays had not been printed, e. g., *The Two Gentlemen of Verona*, *The Comedy of Errors*, *A Midsummer Night's Dream*, *The Merchant of Venice*, *King John*, and *Titus Andronicus*. The enumeration by Meres shows that the plays mentioned by him, both published and unpublished, passed for Shakespeare's.

At about this time, according to tradition, as given by Rowe, Queen Elizabeth commanded Shakespeare to write a play showing Falstaff in love.<sup>1</sup> This character had originally been introduced as Sir John Oldcastle; but it is said that the queen ordered Shakespeare to alter the name, and that Falstaff was accordingly substituted.<sup>2</sup> If these things are so, it shows that the queen communicated with Shakespeare as the author. It has also been said that without doubt she gave him many gracious marks of her favor.<sup>3</sup> Holmes, however, suggests that she also was in the secret of Bacon's authorship.<sup>4</sup>

In 1601 or 1602, as is supposed, an anonymous play called *The Return from Parnassus* was acted, though it was not published till 1606. The actors Kemp and Burbage, associates or fellows of Shakespeare, are introduced as instructors of their art to two university students. Before the students come in, Kemp and

<sup>1</sup> 1 H.-P. 143; 2 H.-P. 74.

<sup>2</sup> 2 H.-P. 74.

<sup>3</sup> Rowe, cited in 2 H.-P. 74. See also Chettle's lines, post, p. 257.

<sup>4</sup> Page 746.

Burbage in Act IV, Scene iii, are made to talk together as follows:—

*Kemp.* I was once at a comedy in Cambridge, and there I saw a parasite make faces and mouths of all sorts in this fashion.

*Burbage.* A little teaching will mend these faults; and it may be, besides, they will be able to pen a part.

*Kemp.* Few of the University pen plays well; they smell too much of that writer Ovid, and that writer Metamorphosis, and talk too much of Proserpina and Jupiter. Why here's our fellow Shakespeare puts them all down,—ay, and Ben Jonson too. O that Ben Jonson is a pestilent fellow! He brought up Horace giving the poets a pill, but our fellow Shakespeare hath given him a purge that made him bewray his credit.”<sup>1</sup>

Here, an actor is made to bring Shakespeare into direct comparison with those playwrights who were university men,—that is, Marlowe, Lodge, Greene, Peele,<sup>2</sup>—and he says, in substance, our fellow Shakespeare, our associate, this play-actor who belongs to our company, writes better plays than any of the university men. Kemp was a fellow or associate of Shakespeare as early as 1589, in the Blackfriars Theatre, and was a favorite comedian, and this language put into his mouth as a character in the play has much significance, in showing the estimate of Shakespeare as a writer by his fellow actors. It is a direct statement that the

<sup>1</sup> Lee thinks that this passage does not imply that Shakespeare took a decisive part against Jonson in the theatrical quarrel. Pages 219, 220.

<sup>2</sup> Fleay, *Hist. of London Stage*, 7.

actor Shakespeare was a successful playwright. By whomsoever written, this play seems to have been acted if not printed while Shakespeare, Kemp, and Burbage were fellows or associates, and while plays purporting to be Shakespeare's were often produced. In the same play, opinions are expressed of several poets and dramatists, with the following of Shakespeare : —

“ Who loves Adonis's love, or Lucrece's rape,  
His sweeter verse contains heart-robbing life,  
Could but a graver subject him content,  
Without love's foolish, lazy languishment.”

In England's Mourning Garment, published in 1603, Chettle lamented Shakespeare's omission to write lines on the death of Queen Elizabeth, thus : —

“ Nor doth the silver-tongued Melicert  
Drop from his honied muse one sable tear  
To mourn her death that graced his desert,  
And to his lays opened her Royal ear.  
Shepherd, remember our Elizabeth,  
And sing her Rape, done by that Tarquin, Death.”

This seems to imply something more than that he had merely performed as an actor before her, and that in some way she had distinctly recognized him as a writer. It tends to confirm Rowe's statements as to her ordering him to write a play showing Falstaff in love, and bestowing upon him gracious marks of her favor.<sup>1</sup>

<sup>1</sup> Ante, p. 255.

In the same year another poem by an author now unknown, *A Mournful Ditty*, was published, which also called on Shakespeare and other poets to lament her loss.

In the same year John Davies, of Hereford (not Sir John), published *Microcosmos*, containing the following lines : —

“ Players, I love ye, and your quality !  
As ye are men that pass time not abused.”

The initials W. S. R. B. in a note are thought to show that William Shakespeare and Richard Burbage were specially referred to. The same writer, about 1610, in the *Scourge of Folly*, addressed the following lines “To our English Terence, Mr. Will. Shakespeare :” —

“ Some say (Good Will) which I in sport do sing,  
Hadst thou not played some kingly parts in sport,  
Thou hadst been a companion for a king,  
And been a king among the meaner sort.  
Some others rail ; but rail as they think fit,  
Thou hast no railing, but a reigning wit ;  
And honesty thou sowest, which they do reap,  
So to increase their stock, which they do keep.”

These lines, addressing Shakespeare as “Good Will,” especially when taken in connection with the lines in *Microcosmos*, make it probable that Davies was personally acquainted with him, and they contain a fine tribute to his personal qualities, saying in effect that if he had not been an actor he would have been a companion for a

king. If Davies knew what he was talking about, Shakespeare could not have been the dull and illiterate man that some of the Baconians suppose ; unless, indeed, Davies also was in the conspiracy to impose upon the world.

In 1612 Webster, in the Dedication of his play, *The White Devil*, speaks of "the right happy and copious industry of M. Shakespeare, M. Dekker, and M. Heywood." His industry is the characteristic here selected for commendation, and the possession of this habit may help to account for the various kinds of knowledge shown in the plays.

The actor and writer Thomas Greene is said<sup>1</sup> to have spoken the following lines in one of the old comedies : —

"I prattled poesy in my nurse's arms,  
And, born where late our Swan of Avon sung,  
In Avon's streams we both of us have laved,  
And both came out together."

Greene is supposed to have been a relation of Shakespeare, and Heywood, who edited *Tu Quoque*, in 1614, spoke in high terms of him.<sup>2</sup>

In 1630 Stratford was spoken of by an anonymous writer as "a town most remarkable for the birth of the famous William Shakespeare."<sup>3</sup>

In 1635 Heywood, in describing how different poets were styled, said : —

<sup>1</sup> Preface to Cook's *Greene's Tu Quoque*, in 7 *Dodaley's Old Plays*, ed. 1825.

<sup>2</sup> *Drake*, 204.

<sup>3</sup> *Century of Praise*, 181.

"Mellifluous Shakespeare, whose enchanting quill  
Commanded mirth or passion, was but Will."<sup>1</sup>

This shows that Shakespeare was familiarly known as Will; and this statement is confirmed by Davies's addressing him as "Good Will," and by the 135th and 136th Sonnets, if the mention of Will in them is intended to refer to himself: which Gerald Massey doubts.

In 1647 the first edition of Beaumont and Fletcher's collected plays was published. Ten players signed their names to a Dedication addressed to the Earl of Pembroke and Montgomery, in which the following reference was made to Heminge and Condell's Dedication of the First Folio edition of Shakespeare to the Earl of Montgomery (who was the same person) and the Earl of Pembroke, then deceased: —

"But, directed by the example of some who once steered in our quality, and so fortunately aspired to choose your Honour, joined with your (now glorified) brother, patrons to the flowing compositions of the then expired sweet Swan of Avon, Shakespeare," etc.

Four of these signers were included in the list of principal actors in Shakespeare's plays, published in the first Folio, viz., John Lowin, Joseph Taylor, Robert Benfield, and Richard Robinson. Lowin, at least, was a fellow actor with Shakespeare. Thirty-one years after Shakespeare's death, it would seem that these contemporaries

<sup>1</sup> Lines on the Familiar Names, cited in 2 H.-P. 69.

entertained no doubt of his authorship of the plays.

Other references to Shakespeare both before and after his death are collected from different sources in Ingleby's *Century of Praise*; but those above cited are sufficient for the present purpose.

The testimony of Ben Jonson is still more direct and important, and is entitled to the greatest weight. He was born in <sup>Ben Jonson.</sup> 1573, and died in 1637. He was therefore about nine years younger than Shakespeare, and outlived him twenty-one years. He was brusque in manner, and sometimes called "Sour Ben," but the epithet "rare" Ben Jonson has stuck to him. He was somewhat jealous in disposition, somewhat overbearing, and very independent; but, so far as known, nobody ever called him dishonest or untruthful. According to Drummond, "Of all styles he loved most to be named Honest, and hath of that one hundred letters so naming him;"<sup>1</sup> and Ward says this epithet was not undeserved.<sup>2</sup> He had a large acquaintance amongst the great men of the day, and was well acquainted with both Bacon and Shakespeare. Whether Jonson and Shakespeare were always friendly towards each other has been questioned. Gifford, the biographer of Jonson, maintains

<sup>1</sup> Drummond's *Notes*, 37.

<sup>2</sup> 2 Ward, 323.

with acrimony that there is nothing to show the contrary. Elze thinks the evidence sufficient to show unpleasantness at times, though he thinks Shakespeare never descended to the coarser abuse which was common with the other dramatic and theatrical combatants.<sup>1</sup> There is no doubt that there was a war of the theatres, and much free speech. The warmth of Jonson's final tributes to Shakespeare can only be questioned by assuming that they were insincere, and in fact were a mere mask. But nothing known of Jonson is consistent with such a supposition. It is assumed by Holmes that if Shakespeare was not the author of the plays, Jonson must have known it.<sup>2</sup> But if he knew such a fact, there were times when he would have been likely to speak of it. Especially if Shakespeare was known or believed to be an impostor, it is incredible that Jonson would have spoken of him with such affection and commendation as he did, when he might at least have kept silent.

Not all that Jonson wrote of Shakespeare after the latter's death can be copied here ; but significant specimens will be given.

In 1623, when the Folio edition was published by Heminge and Condell, Jonson was fifty years old, and was the first of living dramatists. He wrote some lines which were printed with the portrait of Shakespeare in that edition : —

<sup>1</sup> Page 159.

<sup>2</sup> Pages 165, 647-651.

"This figure that thou here seest put,  
 It was for gentle Shakespeare cut;  
 Wherein the graver had a strife  
 With Nature, to outdo the life:  
 O could he but have drawn his wit  
 As well in brass, as he has hit  
 His face, the Print would then surpass  
 All that was ever writ in brass.  
 But since he cannot, Reader, look  
 Not on his Picture, but his Book."

This portrait was cut by Droeshout, and it is copied in many editions. Judged by modern standards, it was not a fine work of art, but certainly it showed a good face, and its likeness is attested by the above lines.

Jonson also wrote some lines prefixed to the Plays, addressed "To the memory of my beloved, the author, Mr. William Shakespeare, and what he hath left us." Some extracts follow:—

"While I confess thy writings to be such  
 As neither man nor muse can praise too much."  
 . . . "Soul of the age!  
 The applause! delight! the wonder of our stage!  
 My Shakespeare rise. I will not lodge thee by  
 Chaucer, or Spenser, or bid Beaumont lie  
 A little further off, to make thee room:  
 Thou art a monument without a tomb,  
 And art alive still, while thy book doth live,  
 And we have wits to read, and praise to give.  
 . . .  
 And tell how far thou didst our Lyly outshine,  
 Or sporting Kyd, or Marlowe's mighty line.  
 And though thou hadst small Latin and less Greek,  
 From thence to honor thee, I will not seek

For names: but call forth thundering Æschylus,  
Euripides, and Sophocles to us.

Triumph, my Britain, thou hast one to show  
To whom all scenes of Europe homage owe.  
He was not of an age, but for all time!  
And all the Muses still were in their prime,  
When, like Apollo, he came forth to warm  
Our ears, or, like a Mercury, to charm!  
Nature herself was proud of his designs,  
And joyed to wear the dressing of his lines!  
Which were so richly spun, and woven so fit,  
As, since, she will vouchsafe no other wit.

Shine forth, thou star of poets," etc.

Jonson afterwards set down in plain prose, in Discoveries, certain statements concerning Shakespeare, from which an extract will be given:—

"*De Shakespeare nostrat.* I remember, the players have often mentioned it as an honor to Shakespeare that, in his writing, whatsoever he penned, he never blotted out line. My answer hath been, would he had blotted a thousand; which they thought a malevolent speech. I had not told posterity this, but for their ignorance who choose that circumstance to commend their friend by, wherein he most faulted; and to justify mine own candor—for I loved the man, and do honor his memory, on this side idolatry, as much as any. He was indeed honest, and of an open and free nature; had an excellent fancy; brave notions and gentle expressions; wherein he flowed with that facility that sometime it was necessary he should be stopped; *sufflaminandus erat*, as Augustus said of Haterius. His wit was in his own power; would the rule of it had been so too. Many times he fell into those things, could not escape laughter; as when he said in the person of Cæsar, one

speaking to him, 'Cæsar, thou dost me wrong,' he replied, 'Cæsar did never wrong but with just cause,' and such like; which were ridiculous. But he redeemed his vices with his virtues. There was ever more in him to be praised than to be pardoned."

If Jonson's word is to be taken, it was a matter of common speech among the players that Shakespeare wrote rapidly, and with but slight correction of his manuscript. Jonson also certifies to the rapid workings of Shakespeare's mind; he overflowed with wit, he bubbled over, he expressed himself with such fluency that occasionally it was necessary or desirable to stop him; his fault was too much facility, too great readiness, his wit was not ruled or held in check sufficiently. But he was honest. This was Jonson's criticism, expressed nearly twenty years after Shakespeare's death.

To meet these statements of Jonson, both in poetry and in prose, the Baconians have nothing to say, no explanation to offer, except that Jonson was a party to the imposture of palming off Shakespeare for Bacon.

In 1616 Shakespeare died and was buried in the chancel — the place of honor — of the church in Stratford. The record of his burial is as follows: "1616, April 25, Will Shakspeare, gent." A bust of him was placed in a niche in the wall near the

Shake-  
speare's  
burial, bust,  
tablet.

grave. This was made by Gerard Johnson, of London. The precise date is not known, but the bust is referred to in the lines of Leonard Digges in the Folio edition of 1623. It was represented with a pen in hand, as if in the act of composition. Beneath it is a tablet with these lines : —

“Judicio Pylium, genio Socratem, arte Maronem,  
Terra tegit, populus mœret, Olympus habet.”

“Stay, passenger, why goest thou by so fast,  
Read, if thou canst, whom envious Death hath placed  
Within this monument, Shakespeare, with whom  
Quick nature died ; whose name doth deck this tomb  
Far more than cost ; sith all that he hath writ  
Leaves living art but page to serve his wit.”

The bust is described by Drake<sup>1</sup> and by Elze.<sup>2</sup> If its shape and contour are regarded, it represents an intellectual man, though it is not a work of artistic merit. The burial in the chancel, the placing of a bust to his memory, the representation of him with pen in hand, and the inscription on the tablet, go to show the estimation in which he was held as a man and as a writer. By no stretch of post-mortem adulation could it be said of a dull, illiterate man, “Earth covers, the people mourns, Olympus holds, a Nestor in wisdom, a Socrates in genius, a Maro in art ;” or, to use Mrs. Dall’s translation, —

<sup>1</sup> Pages 633-635.

<sup>2</sup> Elze, Appendix II, p. 548. See also 1 H.-P. 259.

"Wise as the man of Pylos, inspired like Socrates, and with the skill of Maro.

Earth covers, the people mourn, and Olympus holds him."<sup>1</sup>

It was not then doubted that he was the author of the plays.

In 1623 the first edition of Shakespeare's collected plays, usually called the First Folio, or the Folio edition, was put forth by Heminge and Condell. They <sup>First Folio, and pre-fixes.</sup> were actors, and were associates or fellows of Shakespeare in the management of the theatre. In 1623 they were the leading proprietors of the Globe and Blackfriars theatres, and are supposed to have been the owners of most, if not of all, of the plays. Shakespeare in his will, by an interlineation, gave "to my fellows, John Hemynges, Richard Burbage, and Henry Cundell, 26s. 8d. apiece to buy them rings." He had long known them. Heminge was the original performer of Falstaff.<sup>2</sup> Shakespeare, Burbage, Phillips, Heminge, Condell, were all included in the special license granted by King James in 1603.

The title of the Folio edition was: "Mr. William Shakespeare's Comedies, Histories and Tragedies. Published according to the true, original

<sup>1</sup> What we really know about Shakespeare, 71.

<sup>2</sup> Old tract, referred to by Malone, cited in Wilder's *Life of Shakespeare*, 83.

copies." There were various prefixes or prefaces to the Plays. Mention has already been made of Jonson's lines.<sup>1</sup> The volume was dedicated to the Earls of Pembroke and Montgomery, who were brothers. An extract follows:—

"For so much were your L.L. [lordships] likings of the several parts when they were acted, as, before they were published, the volume asked to be yours. We have but collected them, and done an office to the dead to procure his orphans guardians; without ambition either of self-profit or fame, only to keep the memory of so worthy a friend and fellow alive, as was our Shakespeare, by humble offer of his plays to your most noble patronage. . . . We most humbly consecrate to your H. H. these remains of your servant Shakespeare. . . . The reputation his, and the faults ours."

The above seems to imply, though not necessarily, that Shakespeare had some personal acquaintance with Pembroke and Montgomery.

Heminge and Condell added an address "To the great variety of Readers," in which they say:—

"It had been a thing, we confess, worthy to have been wished, that the author himself had lived to have set forth and overseen his own writings; but since it hath been ordained otherwise, and he by death departed from that right, we pray you do not envy his friends the office of their care and pain to have collected and published them; and so to have published them as where (before) you were abused with divers stolen and surreptitious copies, maimed and deformed by the frauds and stealths of injurious impostors that exposed them; even those are now offered to your view

<sup>1</sup> Ante, p. 263.

cured and perfect of their limbs, and all the rest absolute in their numbers as he conceived them ; who, as he was a happy imitator of nature, was a most gentle expresser of it. His mind and hand went together ; and what he thought, he uttered with that easiness that we have scarce received from him a blot in his papers."

Heminge and Condell must have known where the plays came from, and there is no way for the Baconians to meet these statements of theirs except to say that they are not to be relied upon, or to assume that they also were parties to the great imposture. The Dedication to the Earls of Pembroke and Montgomery would seem to involve them also as sharers in the same deception. Add to this the two dedications in the name of Shakespeare himself to the Earl of Southampton, republished so often in succeeding editions of *Venus and Adonis* and *Lucrece* ; and if he was not actually the author, it implies a passion for making and accepting fictitious dedications, which was participated in by seven persons, and must have been known to many more.

Amongst other prefixes to the Folio edition were some lines by Hugh Holland, two of which are as follows : —

"Which crown'd him poet first, then poet's king."

"The life yet of his lines shall never out."

Leonard Digges also contributed some lines. He was a poet and orator, born in 1588, edu-

cated at Oxford, and died in 1635. Some extracts follow : —

“Shakespeare, at length thy pious fellows give  
 The world thy works — thy works, by which, outlive  
 Thy tomb thy name must ; when that stone is rent,  
 And time dissolves thy Stratford monument,  
 Here we alive shall view thee still. This book,  
 When brass and marble fade, shall make thee look  
 Fresh to all ages ; when posterity  
 Shall loath what 's new, think all is prodigy  
 That is not Shakespeare's ; every line, each verse,  
 Here shall revive, redeem thee from thy hearse.  
 Nor fire nor cankering age, as Naso said  
 Of his, thy wit-fraught book shall once invade.  
 . . . . .  
 Be sure, our Shakespeare, thou canst never die,  
 But, crowned with laurel, live eternally.”

Digges wrote other lines on Shakespeare, which were first printed as a prefix to an edition of Shakespeare's Poems published in 1640. In these he referred to the great popularity of Julius Cæsar, Othello, Henry IV, Much Ado about Nothing, and Twelfth Night, styling them “the pattern of all wit.”

Shakespeare was styled “gentleman,” not only in the record of his burial, but in deeds executed in 1602, 1605, 1612-13 ; in his will ; in the inscription on the tombstone of his son-in-law Dr. John Hall, who died in 1635 ; and in the inscription upon the tombstone of his daughter Susanna, — Mrs. Hall, — who died in 1649.

## CHAPTER XVI

### SHAKESPEARE'S PROBABLE FRIENDS AND ACQUAINTANCES

THE supposition that Bacon wrote the plays and poems rests partly on the theory that Shakespeare was a dull, illiterate man, and it necessarily implies an imposture in holding him out as the author; an imposture which was participated in by a good number of persons, known to several more, and continued from the time of the production of the first play in the theatre till after the death of Shakespeare and of Bacon; an imposture which had the effect to deceive all of their acquaintances and contemporaries who were not privy to the deception. The Baconians do not shrink from this conclusion. In their view, Bacon procured Shakespeare to occupy the position of ostensible author, and Shakespeare did this without detection. Holmes mentions the following persons as probably in the secret, viz. : Ben Jonson, Sir Tobie Matthew, the Earls of Essex, Southampton, and Pembroke; Sir John Davies; if not George Herbert, Dr. Donne, and the Queen.<sup>1</sup> Bacon must also have

<sup>1</sup> Pages 72-78, 136, 137, 144, 165, 172, 647, 648, 746.

had other assistants and go-betweens. There were thirty-seven plays, besides *Venus and Adonis*, *Lucrece*, the *Sonnets*, and the other poems. Some of the plays were altered and added to from time to time. Many other persons besides those named above must, it would seem, have known the fact if Bacon was the author, or if Shakespeare was not; for example, Bacon's biographer and assistant, Rawley, the Earl of Montgomery, Richard Burbage, Heminge, Condell, and other actors. The imposture must have been supported by continuous acts, extending over many years.

The theory that Shakespeare was dull and illiterate cannot stand. A fool could not be palmed off as the great genius who had written the plays. But let it be supposed that he was a man of respectable parts; still, if he was falsely assuming to be the author, there were many intelligent persons, besides those already mentioned, who were in a position to detect the imposture. The more acquaintances he had, the harder it is to believe that they were all mistaken, and it is almost impossible to suppose that great numbers shared in such a secret. A more detailed enumeration of known or probable friends or acquaintances of Shakespeare may be made, in order the better to show the difficulty of maintaining such a deception.

In the first place, there was in the *First Folio*

a list of the principal actors in all the plays, twenty-five in number, besides Shakespeare himself, as follows : Richard Burbage, John Heminge, Augustine Phillips, William Kemp, Thomas Pope, George Bryan, Henry Condell, William Slye, Richard Cowley, John Lowin, Samuel Cross, Alexander Cooke, Samuel Gilburne, Robert Armin, William Ostler, Nathan Field, John Underwood, Nicholas Tooley, William Ecclestone, Joseph Taylor, Robert Benfield, Robert Goughe, Richard Robinson, John Shank, John Rice.

Of these Burbage was the leading actor of the time ; Armin and Field were dramatists as well as actors ; Lowin, Taylor, Benfield, and Robinson were included amongst the ten actors who in 1647 put forth the first collected edition of Beaumont and Fletcher's plays ; William Kemp was a leading comedian ; Burbage, Phillips, Heminge, and Condell were personal friends of Shakespeare. According to Fleay's list of actors,<sup>1</sup> Field, Ecclestone, Taylor, Benfield, Shank, and Rice did not belong to any of the Shakespeare companies of actors till 1616, the year of Shakespeare's death ; so that it is possible that he may not have met them personally. But at least he would be likely to have some acquaintance with the rest of them. It is probable, also, that he knew other actors besides those enumerated as taking parts in his own plays. He was a

<sup>1</sup> Fleay, *Hist. of London Stage*, 370-377.

member of the Earl of Leicester's company from 1587 to 1589; of Lord Strange's company from 1589 to 1593; of the Lord Chamberlain's company from 1593 to 1603; and of King James's company from 1603 to 1610. Various other actors were members of one or another of these companies at the same time with Shakespeare. Amongst these were Edward Alleyn, Christopher Beeston, J. Duke, Lawrence Fletcher, J. Sanders, W. Tawyer, and A. Young.<sup>1</sup> Of these, Alleyn was a leading actor, the rival of Burbage, and Fletcher was one of the eight persons named with Shakespeare in King James's license or patent to the players in 1603. There is little reason to doubt that Shakespeare had a pretty general acquaintance with the actors in London from 1590 to 1610; and also with the managers of the various theatres during the same time, as well as with those "officers of the royal household who collectively controlled theatrical representations at court."<sup>2</sup> These men, as a class, must have been bright and observant persons, most capable of detecting shams amongst their associates.

He must also have had a considerable acquaintance amongst the dramatists and poets of the time. Fleay, who is inclined to narrow the list of such acquaintances, enumerates the fol-

<sup>1</sup> Fleay, *Hist. of London Stage*, 375.

<sup>2</sup> Lee, p. 413.

lowing:<sup>1</sup> Wilson, Peele, Marlowe, Drayton, Lodge, Marston, Chapman, Dekker, Jonson, Tourneur, and Wilkins. He adds that Shakespeare's relations with Marston, Chapman, and Dekker were ephemeral. Of these, Wilson and Peele were actors, and each of them at some time performed in the company of which Shakespeare was a member. Plays by Peele, Marlowe, Lodge, Drayton, Chapman, Dekker, Tourneur, and Wilkins were also performed by Shakespeare's company. Marston is said by Fleay to have joined with Shakespeare and Dekker in maintaining a stage quarrel against Jonson and Chapman from 1599 to 1601. Marston, Chapman, and Jonson joined with Shakespeare in contributing poems to Robert Chester's *Love's Martyr*, published in 1601. Drayton was from Warwickshire, was in the habit of visiting Sir Henry Rainsford, who lived about a mile from Stratford, and in 1627 he addressed to Henry Reynolds a poem on the English poets, which mentions Shakespeare in a manner implying personal acquaintance. There appears to be no reason to doubt that Shakespeare knew all of those dramatists and poets enumerated by Fleay; but his acquaintances cannot be so limited.

Reasons for adding to this list the names of Chettle, John Davies of Hereford, Barnfield,

<sup>1</sup> *Life and Work of Shakespeare*, 75-81.

Robert Chester, Webster, Heywood, Thomas Greene, Hugh Holland, and Leonard Digges have already appeared in these Notes. But there are also sufficient reasons for adding others.

There was at that time a close connection between the acting and the writing of plays. Doing the one seemed naturally to lead to doing the other. It has already been mentioned that many of the dramatists were also actors.<sup>1</sup> Dramatists who were not actors used to frequent the theatres, and probably had free admission and sat on the stage.<sup>2</sup> Only slight evidence is necessary to lead to the belief that Shakespeare had at least a speaking acquaintance with the dramatists then living in London. His intimacy with Jonson has already been referred to. Long after Shakespeare's death, Jonson wrote: "I loved the man, and do honor his memory, on this side idolatry, as much as any." This implies that others also loved him and honored his memory, and Jonson strongly asserts his own affection; perhaps in reply to some who may have questioned it, or asserted their own.

Robert Armin, author and actor, was joined with Shakespeare in King James's license or patent in 1603. He was a friend of Shakespeare's friend Augustine Phillips, who died in 1605, and left a legacy to each of them. Phillips, ac-

<sup>1</sup> Ante, p. 210.

<sup>2</sup> Knight, 309.

ording to Elze, was a man of means and greatly esteemed in his private life.<sup>1</sup>

Kyd's Jeronymo, according to Fleay,<sup>2</sup> was acted twenty-two times at the Rose Theatre in 1592 by Lord Strange's Company. Shakespeare belonged to that company.

In 1599 John Weever, a poet but not a dramatist, published an epigram addressed to Shakespeare which suggests acquaintanceship.<sup>3</sup>

There is small reason to doubt that the poet Samuel Daniel, 1562-1619, was a friend or at least an acquaintance of Shakespeare.<sup>4</sup> He was master of the revels in 1604; was a friend of Drayton; brother-in-law of Florio, the teacher of French and Italian, and translator of Montaigne; and his sonnets were taken by Shakespeare as a model for his own.<sup>5</sup>

William Warner, 1558-99, the translator of the *Mencechmi* of Plautus, and the author of *Albion's England*, is thought by Elze to have come from Warwickshire,<sup>6</sup> and if so he would probably become acquainted with Shakespeare.

If, according to the opinion which now generally prevails, *King Henry VIII* was written by Shakespeare and Fletcher, this fact increases the antecedent probability that they were acquainted with each other.

<sup>1</sup> Elze, 252.

<sup>2</sup> Copied in Drake, 519.

<sup>3</sup> Elze, 120, 140, 329, 433.

<sup>4</sup> *Chronicle of English Drama*, 28.

<sup>5</sup> Drake, 297.

<sup>6</sup> Elze, 120.

Lyly is said by Fleay<sup>1</sup> to have had plays acted at the Globe or Blackfriars Theatre. Shakespeare was connected with both of them.

The writer of the *Return from Parnassus*, whoever he was, probably knew Shakespeare.

The Second Folio edition was published in 1632. An anonymous poem was prefixed, "Upon the effigies of my worthy Friend, the Author, Master William Shakespeare, and his works."<sup>2</sup> This implies personal acquaintance by the unknown writer.

Another poem, signed I. M. S., was also prefixed, which suggests but does not necessarily show such acquaintance.

Dr. Grosart,<sup>3</sup> in his *Essay on the Life and Writings of Donne*, expresses the opinion that Donne and Shakespeare knew each other, though there is no direct proof of it.

From the literary class, the names of Camden, Meres, Florio, John Bodenham, editor of *Belvedere*, and William Barksted, author of *Mirrha*, may be added as probable acquaintances. The last named was an actor.<sup>4</sup>

No distinct and trustworthy evidence can now be referred to which shows personal acquaintance with Beaumont, Selden, Sir Walter Raleigh, Sir John Davies, Inigo Jones, Monday, Wade-

<sup>1</sup> *Hist. of London Stage*, 154.

<sup>2</sup> *Ingleby, Century of Praise*, 189.

<sup>3</sup> 2 *Donne* (Grosart's ed.), xlv.

<sup>4</sup> *Fleay, Chronicle of English Drama*, 29.

son, or Sylvester, though the existence of such acquaintance with several of them appears to be probable. It is not unlikely that Shakespeare frequented the Mermaid Club, but distinct proof of it is lacking. According to Jonson, he was bubbling over with wit. If so, he would be more likely to have many acquaintances amongst the contemporary writers and others. This view is confirmed by the recorded traditions, as well as by the lines on the tablet. Fuller, who died in 1661, said that Shakespeare "could turn with all tides, tack about, and take advantage of all winds, by the quickness of his wit and invention."<sup>1</sup> Ward, in 1662 or 1663, wrote, "I have heard that Mr. Shakespeare was a natural wit."<sup>2</sup> Aubrey, 1680, said he was "very good company, and of a very ready and pleasant smooth wit;" and again, "I have heard Sir William Davenant and Mr. Thomas Shadwell . . . say that he had a most prodigious wit, and did admire his natural parts beyond all other dramatical writers."<sup>3</sup> Rowe, 1709, said he had an "admirable wit," and was "a good-natured man, of great sweetness in his manners, and a most agreeable companion."<sup>4</sup> He adds that "every one who had a true taste of merit, and could distinguish men, had generally a just value and esteem for him. His exceeding candor and

<sup>1</sup> 2 H.-P. 70.<sup>2</sup> 2 H.-P. 70, 71.<sup>3</sup> 2 H.-P. 70.<sup>4</sup> 2 H.-P. 73, 74.

good nature must certainly have inclined all the gentler part of the world to love him, as the power of his wit obliged the men of the most delicate knowledge and polite learning to admire him." These traditions but confirm the tributes of contemporaries, and well warrant the confident belief that Shakespeare not only had friends in sufficient abundance, but that he stood well with them.<sup>1</sup> It appears to be quite certain that they were not limited to Fleay's list.

In seeking to ascertain those with whom Shakespeare was brought into personal relations, reference should be made also to the different printers and publishers of the poems and plays. The first of these was Richard Field, a native of Stratford, who printed *Venus and Adonis* in 1593 and *Lucrece* in 1594. From 1593 to 1607 there were more than a dozen of such printers and publishers, whose names are given by Fleay.<sup>2</sup> All of these would or might have some means of judging whether Shakespeare was the real author or not. They were likely to have some communication with him, even though he may not have read the proofs. In several instances new editions were published, which, according to the title-pages, were augmented, or newly augmented, or corrected by Shakespeare.

<sup>1</sup> See Elze, 137, 145 et seq.

<sup>2</sup> Shakespeare Manual, 142, 143.

As early as 1592, according to Chettle, "divers of worship" reported Shakespeare's uprightness of dealing and his facetious grace in writing. At later dates some acquaintance with persons of rank and social distinction is indicated by the following circumstances:—

The Dedications of *Venus and Adonis* and of *Lucrece* to the Earl of Southampton have already been adverted to.<sup>1</sup> In 1623 the Folio edition was dedicated to the Earls of Pembroke and of Montgomery in terms which imply that they had shown some favor to Shakespeare in his lifetime. Lord Hunsdon<sup>2</sup> was Lord Chamberlain till 1596, when he died and was succeeded by his son. Halliwell-Phillipps thinks that Shakespeare probably had some personal acquaintance with the Earl of Essex, the Earl of Rutland, and Sir Charles Percy.<sup>3</sup> The latter was one of those who in 1600 procured the performance of the play representing the deposition and killing of King Richard II. This derived significance from its supposed connection with the conspiracy of Essex.<sup>4</sup> Whether the play performed was Shakespeare's *King Richard II* is a matter not fully settled. Lee thinks it was.<sup>5</sup> If the *Sonnets* are autobiographical, acquaintance with a person of some distinction is

<sup>1</sup> *Ante*, pp. 155–158.

<sup>2</sup> 1 H.-P. 116; Lee, 35.

<sup>3</sup> 1 H.-P. 176, 177.

<sup>4</sup> Ingleby's *Century of Praise*, 36, 37.

<sup>5</sup> Page 175.

indicated who is supposed by some to have been William Herbert, afterwards Earl of Pembroke. The contribution of *The Phoenix and Turtle* to Robert Chester's volume in 1601, and the consecration of it to Sir John Salisburie, as hereinbefore detailed,<sup>1</sup> imply acquaintance with both of them. It was the custom at that time for distinguished patrons of the theatre to go upon the stage or behind the side scenes,<sup>2</sup> and more or less acquaintance with the leading actors would naturally follow.<sup>3</sup>

After his retirement to Stratford, which perhaps was in 1613, Shakespeare no doubt knew most of the leading persons of that place and its vicinity. The tablet in the church says, *Populus mæret*. His will contained legacies not only to his fellows Heminge, Burbage, and Con-dell, but to Mr. Thomas Combe, Thomas Russell, Esq., Francis Collins, Hamlet Sadler, William Reynolds, gent., Mr. Thomas Nash, and to his godson William Walker. These last named

<sup>1</sup> *Ante*, pp. 161-164.

<sup>2</sup> Gervinus, 90.

<sup>3</sup> In George Wyndham's edition of *The Poems of Shakespeare*, 303 (American edition), he says in a note :—

"I am indebted to Lord Pembroke for the information that a letter, now unfortunately mislaid, existed at Wilton from Lady Pembroke to her son, the third Earl, telling him to bring James I over from Salisbury to witness a representation of *As You Like It*. The letter contained the words, 'We have the man Shakespeare with us.' . . . Lord Pembroke has no doubt but that Shakespeare was often at Wilton, and he adds that a good statue of him stands in Holbein's Porch, indicating that the tradition of his connection with Wilton is of old standing."

Lee doubts the existence of any such letter ; pp. 411, 412, note.

were some of those who were about him then ; dull men, perhaps, as compared with the dramatists and actors of his acquaintance.

So many persons even now can be named, though a full enumeration of his friends and acquaintances of course is impossible. Enough appears to show that he must have been known by many actors, managers, poets, dramatists, patrons of the theatre, some court officers, probably some publishers and printers, "divers of worship," and during the last years of his life by most of the leading persons in and about Stratford. These persons met him face to face, knew him, talked with him, and knew also what others said of him. Though it appears reasonably certain that he was generally liked, he was not exempt from jealousies and rivalries, and perhaps to some extent was involved in the war of the theatres which raged about the year 1600. There were some who had a disposition and a motive to expose him if he was putting forth pretensions which were unfounded. In the opinion of the whole literary and theatrical classes, and of the public at large, so far as information or tradition has come down to us, he was a man of wit and flowing speech, and was the author of the plays and poems which bear his name. The question is, whether it is possible to suppose that he could have passed amongst all these friends, acquaintances, and rivals, for the author,

without exposure or suspicion, if he was not so in reality, and that such a secret could have escaped detection and disclosure. An expression of opinion upon this point has been attributed to Sir Henry Irving, with which these Notes may come to a fitting end: —

“When the Baconians can show that Ben Jonson was either a fool or a knave, or that the whole world of players and playwrights at that time was in a conspiracy to palm off on the ages the most astounding cheat in history, they will be worthy of serious attention.”

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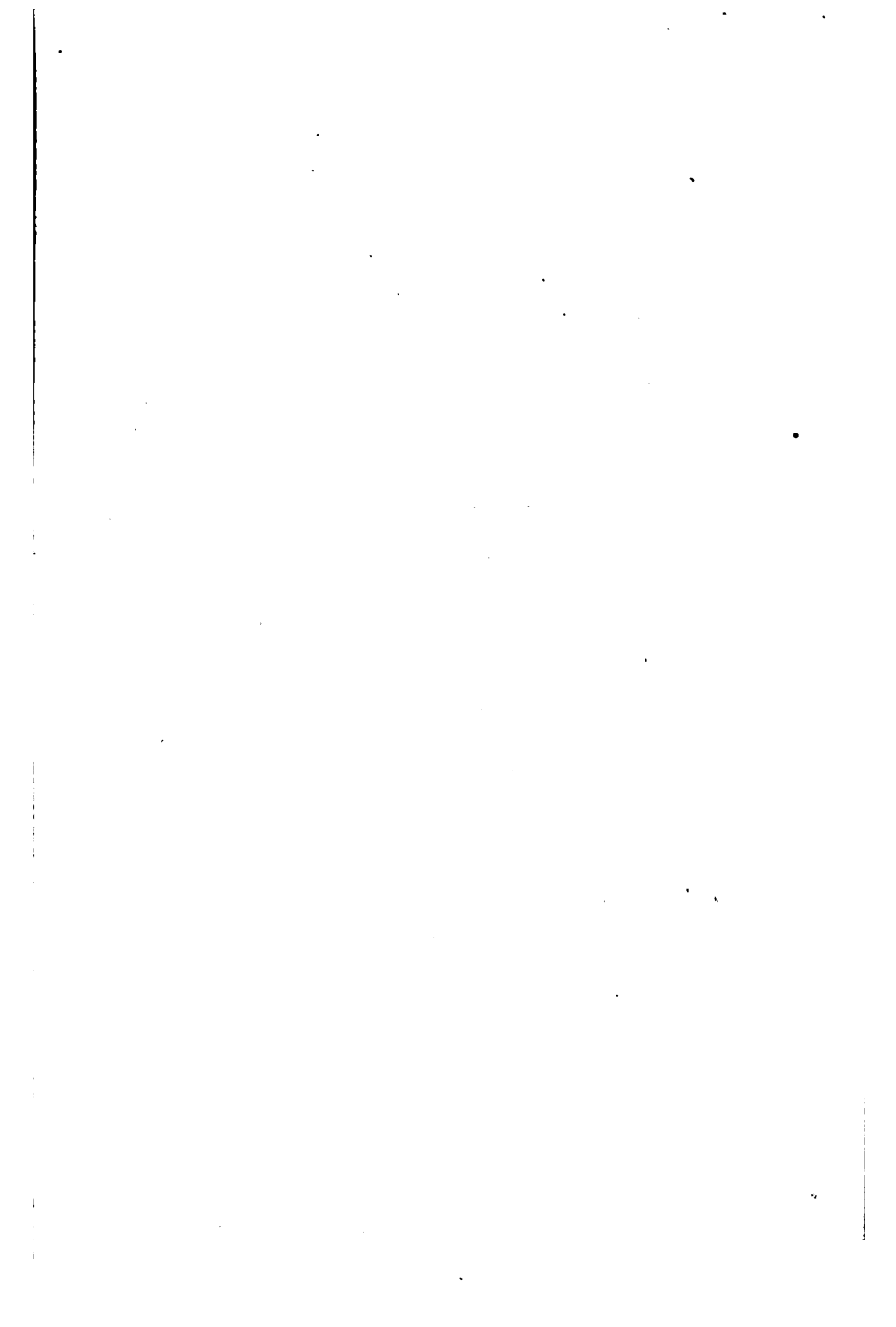
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